UNITED
NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/49/641
S/1994/1252
4 November 1994

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 100 (c)

SECURITY COUNCIL
Forty-ninth year

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in the former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, the members of the Security Council and to the International Conference on the Former Yugoslavia the interim report prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, in accordance with paragraph 37 of Commission on Human Rights resolution 1994/72 of 9 March 1994 and Economic and Social Council decision 1994/262 of 22 July 1994.

ANNEX

Ninth periodic report on the situation of human rights in the territory of the former Yugoslavia, submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights pursuant to paragraph 37 of Commission resolution 1994/72 of 9 March 1994 and Economic and Social Council decision 1994/262 of 22 July 1994

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INTRODUCTION

1. At its fiftieth session, the Commission on Human Rights adopted resolution 1994/72 of 9 March 1994, in which it extended for one year the mandate of the Special Rapporteur, originally established by the Commission at its first special session on 14 August 1992, and requested that he continue to submit to the Commission and the General Assembly periodic reports, as appropriate, on the implementation of that resolution and other relevant human rights resolutions.

2. In the same resolution, the Commission requested the Secretary-General, inter alia, to provide the Special Rapporteur, within the overall budgetary framework of the United Nations, with additional resources and all other necessary assistance to enable him to fulfil his mandate, in particular, to provide for the appointment of field staff in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to provide firsthand, timely reports on the situation of human rights there.

3. In addition to the already existing field offices in Zagreb and Skopje, and following the approval of the Government of the Republic of Bosnia and Herzegovina, a field office was established in Sarajevo in April 1994.

4. The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) continues to refuse to permit the opening of a field office in Belgrade. Moreover, it has also refused permission for the conducting of missions within the framework of the mandate of the Special Rapporteur.

5. The Special Rapporteur points out that a proper execution of his mandate would not be possible without the assistance of the field operation set up by the Centre for Human Rights. The operation both undertakes firsthand investigations and usefully channels vast quantities of human rights-related information gathered by other international organizations which otherwise might have been neglected or overlooked. It has also gained much useful experience with human rights monitoring in all parts of the former Yugoslavia and has developed into a nucleus for any post-conflict human rights monitoring operation which might be put in place in the region. It is, therefore, essential that the operation should continue to perform its functions.

6. The field operation has been financed by both the United Nations regular budget and voluntary contributions. Those contributions will be effectively exhausted by the end of 1994. In order to secure the continuity of the field operation, it would be pertinent if the General Assembly, should it decide to continue the field operation, would, by resolution, provide for the financing of the human rights monitoring operations of the Centre for Human Rights in the former Yugoslavia, from the regular United Nations budget.

7. Since the extension of his mandate and following many field trips undertaken by his staff and a mission which he himself undertook to Sarajevo, Kiseljak, Gorni Vakuf, Bugojno, Travnik, Vitez, Mostar, Medugorije, the Bihac pocket and Skopje in July 1994, the Special Rapporteur has issued two periodic reports (E/CN.4/1995/4 on 10 June 1994 and E/CN.4/1995/10 on 4 August 1994). The first report drew attention to the human rights situation in the enclave of

Gorazde, and the second pointed out some crucial human rights problems prevailing in central and southern Bosnia and Herzegovina, in the Bihac pocket and in the former Yugoslav Republic of Macedonia.

8. On a number of occasions, following investigation by the field staff, the Special Rapporteur has intervened with the authorities in the States covered by his mandate in order to draw their attention to particular cases or allegations of human rights abuses. In each case he has urged that the situation be investigated and, where necessary, remedied without delay. While the Governments usually reply to those interventions, their reactions are frequently unsatisfactory.

9. The Special Rapporteur expresses his thanks to the various bodies which have assisted him and his field staff in carrying out his mandate, including UNPROFOR, the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), the European Union Monitoring Mission, missions of the Conference on Security and Cooperation in Europe, and other intergovernmental and non-governmental organizations. He wishes to acknowledge the courage and commitment of various local non-governmental organizations, named in respective sections of the present report, which provide him with large amounts of credible information about the human rights situation in their countries. The Special Rapporteur also expresses his appreciation for the ongoing support provided by the staff of the Centre for Human Rights, and in particular those stationed in the field.

I. BOSNIA AND HERZEGOVINA

A. Introductory remarks

10. Information contained in this section is primarily based on the ongoing work of the field staff assigned to the Special Rapporteur who have been present in Sarajevo since April 1994. The Special Rapporteur himself conducted a mission to the Federation of Bosnia and Herzegovina in July 1994 and travelled extensively in Central Bosnia and Herzegovina. Bosnian Serb de facto authorities 1/ have not permitted the Special Rapporteur or the field staff to visit territories controlled by them and information on these areas in the present report has been obtained from a range of reliable international and other sources. The Special Rapporteur acknowledges the important role of various international agencies in rendering advice and, where appropriate, assistance and information.

1/ Wherever the terms "Bosnian Serb forces" or "Bosnian Serb de facto authorities" are used in this report, reference is being made, unless otherwise indicated, only to Bosnian Serbs who are in the military or civilian service of the de facto administration which has its political headquarters at Pale. In particular, no reference is intended or to be implied to any Bosnian Serbs who are loyal to the Republic of Bosnia and Herzegovina.

B. Human rights violations against civilians perpetrated by Bosnian Serb forces and de facto authorities

In situ terrorization

11. The pattern of terrorization in Banja Luka has not changed since the last report of the Special Rapporteur and many well-attested accounts have been received of acts of grave violations of all categories of human rights. At the present time, non-Serbs in particular are subject to random violence without the benefit of police protection or investigation of incidents. Indicative of the situation are the following attacks which occurred in just one month in March 1994. Early in the month a 72-year-old Muslim woman lost her eyes and ears in an assault. At about the same time, a Muslim man who tried to deter looters in his home was shot dead. In Sipovo, on 2 March 1994, two men lost their lives in an execution-style killing. On 11 March, looters wounded a man who subsequently died because police refused to allow him to receive medical assistance. Through the month international sources reported rape and other forms of sexual abuse on an almost daily basis in the city and outlying towns such as Vrbanje. Typical of such reports is a later one, from June 1994, describing how the adult female members of a Muslim family were sexually abused by a number of their Bosnian Serb neighbours, forcing the family to flee.

12. The Special Rapporteur has received information that four Muslim members of the Party of Democratic Action, two of whom were ill, were abducted by police officers and taken to Tunjice prison early in September. In the course of the arrests, which occurred at their homes in Banja Luka, it would appear that the four were assaulted and humiliated. Furthermore, their homes were damaged and religious symbols defaced.

13. Numerous reports have been received indicating the targeting of the Roma population from the village of Klasnice (near Banja Luka) and elsewhere. Reports indicate that they have been victims of terrorization for the past two years and there are indications of numerous incidents of physical attacks and many forms of administrative harassment. It was reliably reported in mid-June, for instance, that two Roma children were severely beaten and their families threatened. Many reports have also been received of machine-gun attacks on homes. There is no indication that local authorities are investigating these matters.

14. There have been repeated reports during recent months of the bombing and destruction by fire of the homes of Muslims and other non-Serbs in the Banja Luka area. Within the city of Banja Luka, where recent attacks have concentrated especially on houses close to the Police College, the building housing the Mufti of Banja Luka, the Imam and a family of refugees was bombed on 15 July 1994. The remains of the mosques destroyed in 1993 are in the process of being cleared away by the city authorities. Thus, in July 1994, the sites of the Mehdi Begova, Sefer Begova and Hadzi Kurtova mosques were levelled and all the remaining tombstones destroyed.

15. Reports have also been received from the Banja Luka area of the detention of non-Serbs for forced labour. In recent months, men eligible for conscription but who refused to serve in the army have been compelled to dig trenches at or

near the front line and have been housed in very poor conditions. There have also been incidents of non-Serbs being obliged to perform slave labour in Serb homes and in agricultural activity. It is reported that, on one occasion, when an old horse failed to perform adequately in pulling firewood, Bosnian Serb civilians harnessed three Muslim men to the yoke. The Special Rapporteur has also been told of incidents of the forced labour of 12-year-old Roma boys and of adult invalids.

16. The pattern of terror observable in Banja Luka is also to be seen in towns such as Prijedor, with non-Serbs suffering many forms of human rights abuse. There was a marked escalation of street violence after the return to the town on 29 March 1994 of the bodies of a number of Bosnian Serbs killed in the Bihac region, when Bosnian Serb civilians, unhindered by the local police, attacked non-Serbs. By 31 March, up to 20 non-Serbs had been killed. Since that date, reliable reports have been received indicating that many non-Serb civilians have been held in detention centres in the town, where they have been subject to physical attacks and arbitrary killing. At Prijedor and elsewhere, forced labour during recent months has been employed not only for front-line work, but also for the gathering of the harvest.

17. The situation in Bijeljina, prior to the recent displacements of non-Serbs, was not dissimilar to that in Prijedor, and reliable reports have been received of the existence of civilian detention centres and of the violation of the persons and property of non-Serbs. It is not clear where real authority resides in the town as repeated reports indicate that one Bosnian Serb, without any "official" authority, has been masterminding the terrorization, exploitation and subsequent expulsions of non-Serbs.

18. Among the other locations in areas held by Bosnian Serb forces from which reports have been received of serious violations of human rights of non-Serb civilians are Bosanski Most, Doboj, the Grbavica area of Sarajevo, Modrica and Rogatica. During the summer months, hundreds of forced labourers were housed in camps at Lopare. Forced labour was also reliably reported from Teslic, where it appeared that non-Serbs were threatened with death in reprisal for attacks by government forces, and where work teams included the very young and invalids.

19. The Special Rapporteur has read the comments on his sixth periodic report by the Bosnian Serb de facto authorities, transmitted to the United Nations by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) in July 1994 (E/CN.4/Sub.2/1994/45). He notes the instances in which the de facto authorities undertake to investigate specific cases of criminal activity. However, he observes that the declaration by the Bosnian Serb de facto authorities of a commitment to speedy, impartial investigation of all criminality is belied by the facts.

Displacement

20. At all times since the last report of the Special Rapporteur the displacement of non-Serbs from the region has continued, whether on a "voluntary" basis with or without exchange arrangements, or by means of forced expulsion. The scale of such displacement has, however, increased greatly since mid-July 1994. In recent months there have been two principal waves of

displacement, from the Banja Luka area into Croatia, and from the Bijeljina region to Tuzla. There has also been displacement from areas such as Rogatica to Sarajevo and from Bosanski Most to Turbe. In total, between mid-July and 19 September 1994, at least some 7,000 people were displaced.

21. Between mid-June and 17 September 1994, some 4,700 non-Serbs were displaced into Government-controlled territory from the Bijeljina and Janja regions. According to international sources, in August alone the expulsion figure was some 1,000. In the first week of September the displacement figure jumped to some 1,300. International sources say that there remained, as of 17 September 1994, some 1,300 out of a total Muslim population, as measured in December 1993, of 6,000. Many of the displaced people moved "voluntarily", having paid for the privilege of being involved in population exchanges. However, many of the displaced, whether forced or choosing to depart, were subject to harassment and theft by the Bosnian Serb forces orchestrating the displacement. On at least one occasion early in September 1994, a group of some 200 expellees was allowed to retain only DM 20 each. There are many reports of physical abuse, including rape, committed by Bosnian Serbs supervising the displacement.

22. Although the details of intimidation suffered do not differ greatly from incidents already described in previous reports of the Special Rapporteur, certain aspects of the displacements from areas such as Bijeljina and Janja call for attention. First, the displacements are primarily of women, children and men of military age. On a number of occasions, men of military age have been held back by the Bosnian Serb forces for continued forced labour. There are, however, reports that certain men of military age were allowed to leave on payment of DM 1,000. Secondly, the victims of the displacements are transported to the area of the line of confrontation with the government forces, and, sometimes after long and arduous delays, are forced to traverse the "no man's land" on foot. On at least one occasion, in June 1994, their progress was accelerated by the firing of weapons over their heads. A most noteworthy feature of the displacements is that, orchestrated as they are by one Bosnian Serb local and his followers, the de facto authorities at Pale have disclaimed any involvement in their implementation.

23. The displacements from Banja Luka appear mostly to conform to the pattern of "voluntary" movement pursuant to a reign of terror - a pattern already described in previous reports of the Special Rapporteur. The displacements are often very well organized, involving the bussing of people to the Croatian border, and involve large numbers of people. On one day alone in mid-June 1994, some 460 Muslims and Croats were displaced. Population exchanges have also taken place following agreements concluded between the Bosnian Serb de facto authorities and the Bosnian Croats, for example during September through Livno.

24. A certain number of Serbs resident in areas under the control of the Bosnian Serb de facto authorities do not support the terrorization of non-Serbs and their displacement, and there are reports that some troops and or police were unwilling to assist in recent expulsions from the Bijeljina area. It has also been reported that Bosnian Serb villagers in Bregovi have intervened to save one of the two remaining mosques in the Bosnian Krajina, at Baljvine near Mrkonjic Grad. The Special Rapporteur is aware of the intimidation suffered by

Serb residents of such towns as Banja Luka who oppose the policies of the de facto authorities. Reports have been received of assaults and other forms of intimidatory behaviour.

Military attacks on civilians

25. The situation in Gorazde remains very tense, and most of the numerous cease-fire violations have been perpetrated by the Bosnian Serb forces. Both local civilians and United Nations personnel have been targeted repeatedly. Attacks intensified during July and August 1994, when the use of weaponry such as anti-aircraft guns and mortars resulted in a daily toll of dead and injured civilians. Thus, for instance, three civilians were reportedly killed by sniper fire within the weapons total exclusion zone during the week of 10-16 July 1994, and three more in attacks on 27 July. An anti-sniping agreement was signed on 28 August 1994.

26. Following the establishment of a heavy weapons exclusion zone around Sarajevo and the signing of a cease-fire agreement, there was a considerable diminution in the attacks by Bosnian Serb forces on civilians, by either heavy weapons or sniper fire. Agreement was also reached, on 13 March 1994, for limited freedom of movement between areas of the city under the control of the Government and the Bosnian Serb de facto authorities. Some of the effects of these developments have been witnessed and already described by the Special Rapporteur in his eighth periodic report (E/CN.4/1995/10), in which he drew attention to the remarkable semblance of normality which had developed in the city, notwithstanding ongoing serious problems. By the summer of 1994, essential services were being restored, commercial life was returning, the black market was in decline, bars and cafés were again open, people could walk the streets in relative safety, and cultural life, which had never been dormant, was vibrant.

27. Notwithstanding such developments, attacks, especially by snipers, never ceased entirely and, since early August, have escalated in frequency and deadly effect. The attacks have persisted despite the establishment of anti-sniping agreements such as that of August 1994. On 3 October 1994, there were 2,160 firing incidents (from both sides), the highest number for any single day since the cease-fire agreement of February 1994. The extent of heavy weapons attacks has also increased, especially since mid-August. Attacks occur in both the city centre and the suburbs and have been directed at residences, pedestrians on the street and moving vehicles, such as trams packed with people. As a result of attacks over one six-day period in July-August 1994, which killed one person and injured 15, the tram service was suspended. Within days of its reintroduction it again had to be suspended for two weeks. Attacks have also occurred frequently on Mt. Igman, directed against, inter alia, civilian buses and civilian heavy vehicles, and at the airport. United Nations personnel and staff of other international organizations have also been targeted and have suffered fatalities. On a number of occasions the Bosnian Serb de facto authorities have failed to give assurances that they would not target public gatherings or have actually threatened attack. Two of the more notable incidents of such practices were in the context of the May Day workers' gathering in the city centre and the proposed sports stadium celebration with Pope John Paul II, which was to have occurred in early September 1994.

28. Attacks by Bosnian Serb forces on the civilians of Sarajevo also manifest themselves by means of the blocking of services essential for city life. Primary among such actions are the interferences with humanitarian aid, a matter which is discussed later in this report with regard to all parts of Bosnia and Herzegovina. There have also been a number of incidents of the Bosnian Serb de facto authorities blocking the flow of gas, water and electricity into Sarajevo. When operational, the supply of electricity to the city fluctuates between 20 and 50 per cent of actual requirements and improvement of the service will be dependent, inter alia, on the withdrawal of Bosnian Serb snipers who target repair crews. Cases of interference by Bosnian Serb forces with freedom of movement routes and related practices are noted below.

29. The heightened scale of attacks and threats to the people of Sarajevo and such disappointments as the effective prevention of the visit of Pope John Paul II have all but reversed the dramatic improvements of last summer. It can now be said that the people of that city are facing winter with a sense of hopelessness as acute as ever in the present war and with a heightened sense of having been abandoned by the international community.

30. Bosnian Serb forces have sporadically, but with deadly effect, targeted civilians in Maglaj. Thus, on just one day in March 1994, some 1,300 shells landed in the town, hitting, inter alia, a health-care centre and killing five medical personnel. On 26 July it was reported that eight people were killed in a mortar attack. Since then, there have been reports of injuries inflicted by shelling.

31. Travnik has been subjected to heavy shelling and other forms of attack during recent months. Shelling in the last week of June 1994 claimed at least nine lives. Among the targets was the hospital. Heavy shelling of civilian targets was again noted in August. During the week of 8-14 June 1994, it was reported that some 15 women and children in nearby Turbe were killed or injured in military attacks. In Bugojno, during the same period, some eight people, including a child, were killed in attacks by Bosnian Serb forces, and sporadic attacks on civilians have been reported from there regularly since the submission of the sixth periodic report of the Special Rapporteur (E/CN.4/1994/110).

32. A number of reports have been received of attacks on civilians in locations such as Srebrenica and Tuzla, and local people and United Nations personnel have been targeted by sniper fire and artillery attack. A shell killed a father and son in Tuzla on 11 March 1994 and other attacks on civilians were reported during June, July and August. Attacks on the enclave of Bihac continue to claim civilian lives. Incidents such as the killing in early April 1994 of three civilians were initially concentrated on the southern part of the pocket and population centres such as Bihac town and Cazin. However, following the fall of the forces of the so-called "autonomous province of western Bosnia", attacks were directed at targets in the north of the pocket, causing civilian casualties. These attacks emanated from both Bosnian Serb and Croatian Serb positions.

33. Other locations for attacks by Bosnian Serb forces on civilian targets include Tesanj, Zepce, Visoko, Vares, Zenica, Zavidovici, Tesanj, Gradacac,

Kladanj and Olovo. Furthermore, during July and August 1994 Bosnian Serb forces perpetrated bombardments on the Dubrovnik area of Croatia.

34. Apart from the fatalities and injuries caused by military attacks, and the interferences with the delivery of humanitarian aid, the encirclement and besieging of the various enclaves of population loyal to the Government of Bosnia and Herzegovina cause a high level of psychological strain exacerbated by the lack of gainful or time-occupying activities. The pervading sense of hopelessness experienced by the population, already noted above in regard to Sarajevo, has at times led to reckless attempts to escape. In Gorazde, for example, it has been reported that, on 13 June 1994, between 100 and 150 Muslim residents were on the verge of crossing the confrontation lines to return to their original homes on the east bank of the Drina River.

C. The Federation

35. The Federation now exists side by side juridically with the Republic of Bosnia and Herzegovina and its institutions and structures are gradually being implemented. The Constitution of the Federation pays notable attention to the protection of human rights and stipulates the establishment of a number of potentially powerful institutions for their implementation and enforcement, including a human rights court and three ombudsmen; it also stipulates that each of the proposed Cantons take responsibility for human rights protection.

36. The rights protected by the Constitution include all those currently recognized in international human rights law and others which have not yet attained full international recognition. There is also specific enumeration of a package of rights which would entirely reverse the effects of the practice of "ethnic cleansing". Rights under the Constitution are enumerated, inter alia, by means of the incorporation into domestic law of a wide range of international instruments. The Constitution further provides for the possible deployment in the Federation area of international human rights monitoring operations.

37. Many steps need to be taken before the human rights provisions of the Constitution can be effectively ensured, including overcoming problems of constitutional interpretation. A number of key institutions such as the human rights court and the offices of the ombudsmen also remain to be established. It is a matter of concern that the Constitution does not, despite its human rights provisions, explicitly acknowledge the equal role in the Federation to be played by Bosnian Serbs resident in the Federation area, instead categorizing them as part of the ethnic category "other".

38. With regard to economic and social rights, the Special Rapporteur, following his last mission, has observed that there is as yet little commercial activity and that essential enterprises such as electricity production and distribution companies are unable to operate in a financially viable manner. It is accordingly to be welcomed that certain preliminary initiatives, largely promoted by UNPROFOR, have been taken to bring together business people from various communities with a view, inter alia, to re-establishing a unified market and workforce. Projects such as the reconstruction of Sarajevo and the European

Union Administration of Mostar will also have a crucial role to play, and these are discussed below.

39. Restoration of freedom of movement is essential for the re-establishment of civic society in the Federation area as, without it, there can be no possibility of resuscitating the economy, facilitating the return of displaced people and creating the conditions for respect for a wide range of fundamental human rights. The cease-fire and the terms of the Constitution have allowed for some steps to be taken towards freedom of movement. The first initiative, greatly facilitated by the reconciling activities of UNPROFOR, was the signing on 25 March 1994 of the Gorni Vakuf agreement whereby the Government and the Bosnian Croats agreed that women, children and men of non-military age, subject to certain restrictions, might travel temporarily in the Federation area. It also became possible for men of military age to travel, but only after compliance with strict conditions. At the present time, trips may be taken for up to seven days and there are no restrictions on the number of those permitted to travel at any one time, other than those applied by regional representatives of the parties.

40. Pursuant to the Gorni Vakuf agreement, routes have opened up across the Federation area for commercial traffic, including goods carriers and buses. At the present time some 30 routes are open. The use of these routes and of those opened up into Sarajevo is playing a crucial role in restoring a functioning market economy, with a resultant diminution of the black market. In certain locations there continue to be problems of banditry and of interference with vehicles, especially humanitarian aid convoys.

41. The lifting of certain of the restrictions on freedom of movement has not yet led to any significant return of displaced people. The reasons for the delay are numerous and include the fact that the existing agreements are intended to address only temporary movement. More importantly, the human rights situation continues to be such that return would in many cases be dangerous, a fact recognized and emphasized by international agencies such as the Office of the United Nations High Commissioner for Refugees. The problem is most acute in areas where Bosnian Croats currently constitute a majority, and often has associated with it obstructive practices of local authorities. Areas giving particular cause for concern are Mostar and Kiseljak. Another important obstacle to the implementation of return is the lack of adequate housing, owing to either war damage or occupation by displaced persons.

42. The question of return of displaced people is related to and further complicated by the insistence by local authorities on a reciprocal approach. The reciprocity arises where a town will only countenance a return to it of displaced people when it can relocate those displaced people whom it itself is housing, the argument often being put that there is no other way to house the returning people.

43. One final but central obstruction to the implementation of return is the ultimate and self-evident need to address the issue on a nationwide basis, including areas under the control of Bosnian Serb forces.

44. The return of displaced people that has occurred can be generalized as follows: there is no return of Muslims to predominantly Bosnian Croat areas, though a certain number have returned from Bosnian Croat to predominantly Muslim areas. There has also been a certain amount of movement, both return and voluntary displacement, particularly from Croat-dominated areas in central Bosnia to Croat-dominated areas in Herzegovina, but also from some predominantly Muslim areas to other predominantly Muslim areas.

45. The situation of Bosnian Serbs in Zenica gives cause for concern. Although there is no evidence of any form of systematic campaign of terror, there is a strong perception of harassment and discrimination. Isolated attacks and destruction of religious symbols, such as gravestones, have contributed to this perception. There are also widespread allegations of job discrimination and of arrest and detention of men of military age. In recent months there has been a large displacement of women, children and non-military-age male Bosnian Serbs from Zenica to locations such as Ilidza in Sarajevo. It would appear that these people moved for essentially economic reasons and with the perception that they had no future in areas controlled by the Government. There are reports that displaced people had to pay a fee in order to leave, and on at least one occasion, on 27 June 1994, a group of some 250 were robbed by government military police. Following the displacements, the Bosnian Serb population of Zenica had declined from a figure of 8,000 in March 1994 to just 5,000 by July 1994.

46. Reliable reports have been received from Tuzla since July 1994 of forced recruitment into the army of men of military age, regardless of ethnic background, without any notice of conscription being given. It seems that people are picked up from the streets and imprisoned if they refuse to serve.

47. Since the offensive on Gorazde there has been a deterioration in conditions for Bosnian Serb civilians resident in the enclave. Although cases of the killing of two Bosnian Serb civilians have been investigated by the police, there continue to be reports of incidents of intimidation and harassment, including death threats by Muslim civilians and the confiscation of the homes of Bosnian Serbs to house Muslim displaced people. Other locations in government-controlled Bosnia and Herzegovina from which reports are received of harassment of Bosnian Serbs include Sarajevo, Bugojno, Gracanica, Konjic, Spionica Gornja and Zavidovici.

48. Bosnian Croats as well as remaining members of the Serb community complain of harassment by local authorities or Muslim civilians in Bugojno. The Special Rapporteur visited that town during his most recent mission and heard accounts of ongoing harassment of Bosnian Croats and Serbs, including a grenade attack by persons unknown on the house of a Croat just days before the visit. He was also told that the local government authorities were doing nothing to investigate atrocities allegedly committed during the war, such as the alleged massacre of some 35 local Bosnian Croat intellectuals (a matter which the Special Rapporteur will continue to follow). Representatives of both communities described their total exclusion from the local political process. In discussion with local Muslim political leaders it was confirmed to the Special Rapporteur that allegations of atrocities were not being properly investigated. However, assurances of the protection of local Bosnian Croats and Serbs were given. In

the course of a recent visit to the town by field officers of the Special Rapporteur, it was observed that problems continue. Confirmed reports indicate, for instance, the pillaging by locals of the homes of Croats who have been displaced out of the area. Further, the local authorities refuse to allow local Croats any access to the building in the town housing their cultural centre.

49. The return of Bosnian Croats displaced from Bugojno is proving very difficult and slow. The majority of the displaced Croats are in Prozor, where the Bosnian Croat local authorities have been unwilling to address the issue. It would also appear that the Bugojno authorities insist on a reciprocal arrangement whereby the Croats might return, but only on condition that Muslims displaced from Prozor to Bugojno are allowed to return there.

50. Reports have been received of harassment directed against Bosnian Croats in locations such as Sarajevo, Vares, Jablanica, Kraljevska Sutjeska and Guca Gora. In Vares, it was reported during April 1994 that 30 Croats who travelled from Kiseljak to see their homes, pursuant to the Gorni Vakuf agreement, were detained by local police. In Jablanica there has been a sharp increase in reports of harassment of Bosnian Croats since the redeployment to that town of government troops formerly posted in east Mostar. Incidents of intimidation have occurred, for instance in the Jablanica village of Klis, and it is reported that the study of Arabic must now be compulsory in local schools. However, recent allegations of forced front-line labour for local Croats have not been confirmed.

51. All the residents of Sarajevo have been affected by actions of the Government and the Bosnian Serb forces in restricting freedom of movement. Following an agreement of 15 March 1994 with the Bosnian Serb de facto authorities, transit routes were established (all but one of which the Bosnian Serb forces were to shut down from 26 July 1994). It was also agreed with the Bosnian Serb de facto authorities that short-term visits might be made from and to areas of Sarajevo under their control and that of the Government, respectively. To avail oneself of these opportunities, however, a number of conditions above and beyond those applying to the Gorni Vakuf agreement have to be met. Thus, for instance, government regulations ensure that an application for a short visit to the part of Sarajevo under the control of the Bosnian Serb de facto authorities, or to leave the country, can only be made after a search for various certificates which, in effect, lasts up to a month. The actual applications for visits to other sides of Sarajevo take some considerable time more to process by the Government and the Bosnian Serb de facto authorities. The authorities have impeded the short-term visits by reportedly, at least initially, having military police accompany visitors throughout their stay.

52. A considerable number of reports have been received concerning actions of the 5th Corps of the Army of Bosnia and Herzegovina and of police loyal to the Government in Bihac, particularly prior to the military defeat of the forces of the so-called "autonomous province of western Bosnia", led by Mr. Abdic. In July 1994, two of his officials were killed by government forces: it is alleged that they were first tortured and then executed. Having reviewed the available evidence, the Special Rapporteur is unable to express a firm view on this allegation. It has been confirmed, however, that at the same time another Abdic supporter held by the government forces was paraded naked in front of his

mother and through the streets of Bihac town. During the period of the conflict with the forces of Mr. Abdic, and especially during May 1994, numerous evictions took place of villagers residing close to the internal confrontation line, with the residents being transported to locations in the south of Bihac. Other alleged supporters of Mr. Abdic in Bihac and Cazin were also evicted from their homes.

53. Bosnian Serbs resident in southern Bihac have been subjected to harassment and attacks by both the police and Muslim civilians and express a lack of confidence in the willingness of the authorities to protect them adequately from criminal gangs. A lack of adequate protection is blamed by local Serbs for the killing by unknown assailants of a 67-year-old Serb woman and the serious injuring of another, aged 68, on 24 and 29 May 1994, respectively. Another killing occurred on 10-11 October 1994, when a prominent Bosnian Serb resident of Bihac was shot after having had his hands tied behind his back. Local Bosnian Serbs are convinced that the murder was politically inspired. Other incidents affecting Bosnian Serbs include a confirmed serious police assault on a Bosnian Serb in Cazin on 21 April 1994. The officer responsible was reportedly dismissed from the police force but not prosecuted. There have also been reports of evictions of Serbs in Cazin.

54. Since the deployment of government troops in northern Bihac and the re-establishment of government control there in August 1994, no reports have been received by the Special Rapporteur of a programme of harassment or revenge inflicted on former supporters of Mr. Abdic. There have, however, been reports of small-scale looting of houses.

55. The human rights record of the former breakaway regime of Mr. Abdic gave cause for serious concern and the Special Rapporteur, in his discussions with Mr. Abdic, identified a wilful disregard by him for the rights of people under his de facto control. The Special Rapporteur has already, in his eighth periodic report (E/CN.4/1995/10), drawn attention to the unacceptable fact of the conditions of detention in the civilian detention camp at Velika Kladusa observed by him during his visit in July 1994. Reports have also been received of dismissals from work and the shutting down of the businesses and shops of perceived opponents. It would appear that Mr. Abdic did allow limited movement out of the area under his control, but only on payment to him of a levy.

56. From 21 August 1994, with the collapse of the regime of Mr. Abdic, an exodus of some 30,000 people took place from northern Bihac into the United Nations Protected Area (UNPA) North. While some of these people left voluntarily, many would appear to have been impelled to move by the retreating forces of Mr. Abdic. Some 16,000 of the externally displaced people located themselves in a disused chicken farm near Batnoga, and the remainder, eventually, at Turanj in the separation zone, south of Karlovac. Conditions for these people are very poor and are set to worsen dramatically with the onset of winter. The situation of those at Turanj gives particular cause for concern owing to the prevalence of land-mines in that area (which have already claimed the lives of four people). Prospects for return or placement elsewhere of the externally displaced people are uncertain. The Croatian Government refused to allow them access to territory under its effective control. The possibility of return to Bihac is complicated by the continuing perceived fear of being subject

to revenge attacks and punishment by government forces, despite the offers of amnesty and freedom from conscription made by the Government, and the confidence-building measures of UNPROFOR and UNHCR. Although a small number of the externally displaced people may reasonably fear for their safety should they return, the perception of fear experienced by most of the displaced is stoked principally by the propaganda of Mr. Abdic and his followers. The propaganda exercise is bolstered by the intimidation of those who express a wish to return or who attempt to disseminate impartial information on the issue. For example, on 1 October 1994, staff of international agencies were attacked in the Turanj camp when they attempted to distribute information on the actual options available to the externally displaced people.

57. During the period since the Special Rapporteur's sixth periodic report (E/CN.4/1994/110), there have been reports of attacks by government forces on civilians at locations such as Brcko. Reportedly, 5 people died and 18 were wounded in shelling attacks in mid-May 1994, and fatal attacks continued to be recorded through June and July despite a cease-fire agreement. One particularly grave incident was the firing of rockets from the town of Orasje on the Croatian border on 12 June 1994. Reliable reports continue to be received of Bosnian Government attacks on Bosnian Serb positions, directed from locations containing large numbers of non-combatants. One such incident occurred on 18 September 1994, when government forces launched attacks from residential neighbourhoods of Sarajevo, provoking a retaliatory attack by Bosnian Serbs at Poljine. The Special Rapporteur notes that judicial proceedings have been instigated concerning the killing of priests at Fojnica referred to in the sixth periodic report.

58. Following his mission in July 1994, the Special Rapporteur drew attention to the situation in Mostar in his eighth periodic report (E/CN.4/1995/10), highlighting in particular the damage inflicted by Bosnian Croat forces and the ongoing suffering of civilian Muslims especially. Since the time of the cease-fire, Muslims have continued to be the victims of human rights abuses both directly and through the failure of local police to protect their interests. In one 10-day period during May 1994, for example, it is reported that some 10 Muslims were murdered in western Mostar and that local police took no action to bring the perpetrators to justice. Since that time there have been repeated and reliable reports of the police and military either engaging in assaults on Muslim civilians or failing to act on information provided or arrest well-known troublemakers. There have also been repeated reports of harassment and intimidation, including the looting of the homes of Muslims by men in Croatian Defence Council (HVO) uniforms.

59. As a result of the climate of fear in western Mostar, there has been an ongoing displacement of Muslims into the eastern part of the city. A large proportion of the acts of violence perpetrated in western Mostar are said by local Bosnian Croat authorities to have been committed by uncontrolled gangs. However, it may be observed that the violence is not random and seems to be directed primarily against long-term Muslim residents. Bosnian Croats have also suffered when they opposed the harassment of Muslims. For instance, reports were received in July 1994 of a man threatened by HVO troops with expulsion to eastern Mostar if he failed to hand over to the military authorities a Muslim woman who had been residing in his home.

60. Among the range of other forms of human rights abuse perpetrated by Bosnian Croat authorities in Mostar since the cease-fire have been the deprivation of the eastern part of the city of adequate electricity and telephone lines and interference with humanitarian aid and assistance. The scale of abuses such as these has been reduced since the inauguration of the European Union Administration, described below, and the demilitarization of the city. The initiatives of the Administration have also done much to curb the activities of the terror gangs. There continue, however, to be reports of serious human rights violations, including the September 1994 targeting by shell fire from HVO positions of the office of the European Union Administrator.

61. Another principal area under Bosnian Croat local control which has given cause for concern is Kiseljak. Particularly during the first half of 1994, groups of armed men, reportedly wearing HVO uniforms, committed attacks on Muslims and others. There were a number of disturbing reports during April, when a man was killed by such perpetrators in the town centre, apparently because he was Muslim. A Muslim doctor who had accompanied a patient from Vares back to the town disappeared and was feared to be dead. Bosnian Croats, who had returned from Croatia, were the victims of attack when, in the same month, three of them were removed from the town prison by men wearing military uniforms, branded as "deserters", paraded through the streets and beaten so severely that one died. The Special Rapporteur notes that this matter is being investigated by the authorities. More recently, the Special Rapporteur has, in his eighth periodic report, drawn attention to the ongoing sense of fear and exclusion experienced by Muslims residing in the village of Rotilj close to Kiseljak.

62. Bosnian Croats now in Kiseljak, but displaced from Vares and Fojnica, have had their freedom of movement interfered with by the Kiseljak authorities, in that the authorities have suspended the bus service to Vares and put severe numerical restrictions on those who wish to go there under the terms of the Gorni Vakuf agreement.

63. The situation in Prozor gives cause for concern. The town is reportedly under the control of irregular Bosnian Croat forces acting without lawful authority, although the leadership of the Federation has taken no steps to dislodge them. The town leadership appears to be implacably opposed to the return of those Muslims displaced during the war.

64. Other locations from which reports have been received of attacks against Muslims or their property include Busovaca, Tomislavgrad, Grborezi (close to Tomislavgrad) and Livno. In locations such as these, local Muslims state that they have no confidence in the willingness of the police to protect them or to investigate attacks.

D. Interference with humanitarian aid and assistance

65. There have been numerous incidents of interference with and theft from convoys travelling to Gorazde. Typical of such incidents are the targeting with small-arms fire of United Nations aid convoys during the last week of July 1994, and repeated blockage of convoys at checkpoints. On occasion, convoys are allowed to proceed only after the removal of part of their load of humanitarian

goods, such as occurred at the end of August 1994 when foodstuffs were taken. Bosnian Serb de facto authorities have also interfered with humanitarian activities in Gorazde by their refusal to permit medical evacuation of seriously ill people by helicopter. On 21 July 1994, the Special Rapporteur issued a public appeal calling for the immediate reversal of an evacuation refusal which was endangering the lives of some 34 people. The Bosnian Serb de facto authorities eventually allowed an evacuation only on 5 October 1994, when 24 patients were taken from the enclave. The delay in giving consent resulted in the deaths of two patients.

66. The agreements on the opening of a number of routes in and into Sarajevo resulted in a significant improvement in the humanitarian aid situation and the virtual collapse of the black market within Sarajevo. However, on 26 July 1994, the Bosnian Serb forces closed a key route over the airport apron to all but United Nations military traffic, thus greatly impeding the delivery of humanitarian aid not only to the city, but also to many points in northern and eastern Bosnia. Difficulties were compounded by the imposition of new restrictions on the flow of traffic through the various Bosnian Serb checkpoints. In recent weeks there has also been a high rate of sniper and other attacks on drivers using the Mt. Igman route to and from the city. One such incident was the attack on 27 July 1994 on a convoy en route from Vitez to Gorazde, which resulted in the death of one British United Nations soldier-driver, the wounding of two others and the ignition of some 20,000 litres of fuel. Since July 1994 there has been a sharply escalating rate of attacks by Bosnian Serb forces on Sarajevo airport, which, together with attacks by government forces, have resulted in its frequent closure, thus greatly hindering the programme of delivery of humanitarian aid and medical evacuations. Other actions restricting the flow of humanitarian aid include the continued attempted sequestering of materials carried in convoys. Following one such incident at the end of August 1994, when Bosnian Serb de facto authorities demanded 30 per cent of a UNHCR fuel load destined for Sarajevo, the convoy had to be diverted to Zenica.

67. The supply of humanitarian aid has been interfered with in areas controlled by the Government by means of certain decisions of local authorities or by military attacks, such as those affecting the operability of Sarajevo airport. Thus it is reported that, in the city of Travnik, 30 per cent of aid must by municipal regulation be diverted to supply the army. In the eastern part of Mostar, the opening in July 1994 of an emergency hospital was complicated by the administrative difficulties set by the local government authorities. Residents of east Mostar also suffered from regular interference by Bosnian Croat forces with humanitarian aid deliveries before the demilitarization of the city and the establishment of the European Union Administration. Similar reports of disruption earlier in the year were received from other locations, where small Muslim communities live surrounded by regions which had been under Bosnian Croat control, such as Rotilj near Kiseljak and Stari Vitez in Vitez. The Special Rapporteur examined the situation in both towns during his last mission. Problems are again occurring at the present time: at the beginning of September it was reported that Bosnian Croats would attempt to impose a tax of 100 per cent on all fuel passing through territory under their de facto local control.

E. The situation of detainees

68. Following the peace settlement between the Government and the Bosnian Croats, it was agreed that each side would release its detainees. This had been effected by May 1994. Each side now holds just three prisoners, who are charged with committing serious crimes during the conflict.

69. Following lengthy and difficult negotiations, on 6 October 1994, under the auspices of ICRC and with the participation of UNPROFOR, there was a prisoner exchange between the Government and the Bosnian Serb forces. The forces released 166 detainees from prisons in Sarajevo, Visegrad, Foca, Batkovic and Rudo. The Government released 166 detainees held at Konjic, Sarajevo and Gorazde. On 10 October, another 21 persons were released by the parties. Regrettably, the number of releases constitutes only one third of those agreed between the parties on 8 June 1994, and each side continues to hold some 300 prisoners-of-war.

70. Attention has already been drawn in this report to the plight of men detained in areas under the control of Bosnian Serb forces, particularly in Bijeljina, who are forced to engage in often dangerous labour. Reportedly, ICRC has gained access to at least 220 such prisoners held at camps close to confrontation lines.

71. In the Bihac pocket the Government currently holds some 1,400 prisoners taken in the context of the now terminated internal confrontation there.

F. The reconstruction project in Sarajevo and the European Union Administration of Mostar

72. Important initiatives have been undertaken concerning the two principal cities of the Federation, Sarajevo and Mostar. Sarajevo now benefits from the reconstruction programme pursuant to Security Council resolution 900 (1994) of 4 March 1994, while Mostar is under the administrative jurisdiction of the European Union. Both initiatives have major implications for the protection of human rights.

73. The reconstruction project for Sarajevo, pursuant to which a Special Coordinator was appointed and commenced work on 16 April 1994, will, if successfully implemented, play a central role in the re-establishment of civil society. It will resuscitate industry, create tolerable working and living conditions, and allow the education system to function more effectively. Further, during the period of implementation, important employment opportunities will be created. Some progress has already been achieved in that the programme plan is complete, some donations have been received and project implementation has commenced. However, it is regrettable that progress has been hampered by a lack of adequate funds. Moreover, military and related actions, primarily of Bosnian Serb forces, have seriously hampered the plan's implementation.

74. For the reconstruction project to succeed it is not enough that there be sufficient funds and full cooperation from the Bosnian Serb de facto authorities. It will also be necessary to re-establish freedom of movement and

communication throughout the country. These freedoms cannot be confined to commercial matters but must extend to all speech and movement for whatever purpose. It will also be essential, in acknowledgement of basic democratic principles, to ensure the close involvement of the people of Sarajevo in the implementation of the reconstruction programme. Other human rights issues which arise are the importance of ensuring just labour practices in the implementation of the programme and of equitable decisions on the nature of specific projects and the manner of distributing contracts. These comments apply mutatis mutandis to the other reconstruction projects, including that in Mostar, described below.

75. On 23 July 1994, the European Union Administration of Mostar was established with the purpose of reuniting the city and creating conditions for the enjoyment of a normal life by all its residents. Under the terms of the Memorandum of Understanding agreed between all parties, the Administration, headed by an Administrator, exercises wider powers than the Sarajevo reconstruction project. All issues of city management are addressed, including policing and public order, re-establishment of freedom of movement, and infrastructural and economic revival.

76. The policing task undertaken by the Administration is an onerous one, involving both the deployment of European Union police officers, having organizational, monitoring and investigatory roles, and the re-establishment of a unified police force. At the time of writing the present report, just 50 of a proposed 186 European Union police officers have been deployed, but the figure is being augmented at the rate of about 10 a week. These officers have already received information on cases for investigation and have initiated the programme of establishing joint police patrols.

77. First UNPROFOR and then the European Union Administration have played a central role in re-establishing freedom of movement within the city. The principal agreement of 29 May 1994 allows for limited movement and for access to eastern Mostar for commercial traffic. Since then, four further agreements have been implemented. At each stage of the negotiating process it has been clear that the Bosnian Croat local authorities were reluctant to acknowledge the right to freedom of movement for residents of east Mostar, and only conceded matters after lengthy negotiations and quid pro quo deals.

78. Work has commenced on the reconstruction of the city infrastructure and the creation of employment. Already, and with the cooperation of UNPROFOR and other international organizations, many basic utilities have been restored in both east and west Mostar and a bridge reconstruction project is under way.

G. Conclusions

79. The current wave of forced and fear-induced displacement in areas under the control of Bosnian Serb forces is the largest since the summer of 1992. Muslims, Bosnian Croats and Roma have all suffered killings, violence, including rape, theft of property, and loss of jobs. They have also been deprived of access to educational and medical services. In these areas, there has also been abuse of Bosnian Serbs who defy the de facto authorities.

80. Military attacks on civilian targets have continued with varying degrees of intensity in a number of locations in Bosnia and Herzegovina, killing many hundreds of men, women and children. The principal perpetrators have been the Bosnian Serb forces. Forces of the Government of Bosnia and Herzegovina have also engaged in attacks on civilians, especially at Brcko.

81. The end of hostilities between the Government and the Bosnian Croats and the establishment of the Federation of Bosnia and Herzegovina have been important and encouraging developments. The reconstruction initiatives in Sarajevo and Mostar should also be considered a positive step. However, violations of human rights continue to occur on the territory of the Federation.

82. Significant voluntary return of displaced people has not yet occurred. The attitude of some local authorities and the lack of adequate guarantees of safety and of freedom from prosecution are among the factors influencing the situation.

83. UNPROFOR plays an important role in facilitation of reconciliation and animation of intercommunity initiatives in areas under Federation control. The protection of human rights will also benefit from the role accorded by the United Nations, in Security Council resolution 947 (1994) of 30 September 1994, to the international civilian police component of UNPROFOR pursuant to the report of the Secretary-General of 17 September 1994 (S/1994/1067 and Add.1).

84. The situation of up to 30,000 people displaced from northern Bihac into UNPA North is grave. They are being deprived of the objective information that would allow them to make a free and fully informed decision as to their future destinations.

85. There has been ongoing interference with the delivery of humanitarian aid and the medical evacuation programme has frequently been disrupted. The principal perpetrators are the Bosnian Serb de facto authorities, although Bosnian Croat local authorities and the Government are also responsible for certain interference.

86. The situation in the so-called "safe areas" continues to give cause for concern. The various Security Council resolutions concerning their inviolability continue to be only partially implemented.

H. Recommendations

87. The impasse in the peacemaking efforts of the "Contact Group" prolongs the situation in which violations of fundamental human rights persist. The Special Rapporteur draws attention to the recommendations in his previous reports that any peace agreements must ensure immediate cessation of human rights violations. He also reiterates that peace settlements should ensure the right to return of all displaced people.

88. The Special Rapporteur again confirms his support for the International Criminal Tribunal for the Former Yugoslavia and reiterates the need for the Tribunal to establish its authority in the eyes of people in the region by means of an efficient flow of information and speedy prosecution of cases.

89. The support of the international community is vital for the Federation and it is important that it provide the advice, technical assistance and funding necessary for the Federation's survival. It is especially important at the present time that the reconstruction initiatives in Sarajevo and Mostar attract the generous support of donor States.

90. The Special Rapporteur draws particular attention to the need to restore full freedom of movement in the Federation and to permit the return of all displaced people without local authorities imposing conditions of reciprocity.

91. Protection of human rights in the Federation will call for, inter alia, the deployment of a large-scale international human rights monitoring mission. This should proceed without delay and the Special Rapporteur invites the United Nations High Commissioner for Human Rights, the United Nations Centre for Human Rights and other relevant agencies to begin the planning for such an operation immediately.

92. The coming winter, the third in the ongoing conflict, poses a serious danger to the entire population of Bosnia and Herzegovina. The Special Rapporteur urges the international community to offer its full support to UNHCR and the other humanitarian agencies in their efforts to bring relief to the population of Bosnia and Herzegovina. He also calls upon the parties to the conflict to stop all interference with humanitarian aid deliveries and medical evacuations.

93. The Special Rapporteur, in his reports, consistently points out the important role which can be played by religious leaders in overcoming mutual hatred and hostilities, restoring respect for human rights and fundamental freedoms, and the creation of a just peace. In that regard it is appropriate to appreciate the efforts made by Pope John Paul II to visit Sarajevo. The Special Rapporteur hopes that other religious and church leaders will take similar individual and common initiatives to break the spiral of hatred.

II. CROATIA

A. Introductory remarks

94. The present report is based primarily on firsthand information gathered by the field staff of the Special Rapporteur and from other sources.

95. The Special Rapporteur appreciates the cooperation which the authorities of the Republic of Croatia have offered in the implementation of his mandate. However, he notes that on some occasions his field staff were denied access to some information. On 15 August 1994, the Special Rapporteur informed the Minister of Foreign Affairs of the Republic of Croatia by letter of his main concerns regarding the human rights situation in the country. A reply containing a partial answer to the problems was received on 30 September 1994.

96. The Special Rapporteur wishes to express his gratitude to the Anti-War Campaign of Croatia, the Civic Committee for Human Rights, the Croatian Helsinki Committee, the Dalmatian Committee for Human Rights, the Dalmation Committee of

Solidarity and the Serbian Democratic Forum for their collaboration with the Zagreb field office of the Centre for Human Rights in collecting and assessing information on human rights violations.

B. The judicial system

97. According to article 121 of the Constitution of the Republic of Croatia, the Chamber of Zupanije (the lower chamber of the Parliament) proposes candidates for the High Judiciary Council who are subsequently elected by the Chamber of Representatives (the upper chamber). The Council is entrusted, inter alia, with the competence to appoint and relieve of duty judges and public prosecutors. In the light of the fact that the Law on Courts (Narodne Novine, No. 3, 14 January 1994, pp. 53-64) grants lifelong tenure to judges, the composition of the Council is of the utmost importance to the creation of an impartial and independent judiciary. Therefore, the Special Rapporteur notes with concern that serious irregularities occurred during the selection process of candidates for membership of the Council.

98. Independence and impartiality in the administration of justice constitute one of the basic foundations of effective protection of human rights. The following cases cast serious doubts on measures taken to ensure such a system in Croatia. Some crimes committed in 1991-1992 against persons of Serbian origin have reportedly never been properly investigated nor have the perpetrators been punished, although their identities are known. In December 1991, Mr. and Mrs. Zec and their 12-year-old daughter were murdered in Zagreb and several days later five persons were arrested as alleged perpetrators of the crime. According to reliable sources, four of the suspects were members of a special police unit. The five admitted having committed the murders; however, they were released soon after their arrest for procedural reasons, and have never been punished. In another case, Milan Krivokuca, the first President of the Independent Railway Union of Croatia, was subjected to numerous death threats before he was murdered outside his house in Zagreb on 17 December 1992. Serious allegations were made about possible political motives behind the murder. The police investigation was never completed, and no criminal proceedings were ever instituted. Nineteen persons were tortured, summarily executed and buried in a mass grave in Pakracka Poljana (Pakrac field) in November 1991. Some of the reported perpetrators, who used to belong to a special police force, admitted having committed these crimes, but they were all released and criminal proceedings were discontinued. Finally, the Special Rapporteur has received reports that, in 1992, at least eight murders, allegedly based on the victims' suspected Serbian origin, were committed in Split. The victims were: Gojko Bulovic, Nenad Knezevic, Dalibor Sardelic, Djordje and Vesna Gasparovic, Ivan Nedeljkovic, Spiro Pokrajac and Magreta Slavic. The first three persons were killed in the "Lora" barracks. However, criminal proceedings were never instituted in these cases nor was anyone punished.

99. In his sixth periodic report (E/CN.4/1994/110, para. 85), the Special Rapporteur noted the limited effectiveness of the Ombudsman appointed at the end of 1993, in his role as guarantor of basic human rights. Since then, no improvement in the functioning of this mechanism has been noted.

100. The Special Rapporteur welcomes the information he has received about the imminent establishment of the Provisional Court of Human Rights pursuant to the Constitutional Law on Human Rights and Freedoms and Rights of National and Ethnic Communities or Minorities (ibid., para. 86). He hopes that this development will be followed by prompt appointment of the members of the Court both by the Parliament of the Republic of Croatia and by the European Union.

101. In his sixth periodic report (ibid., para. 87) the Special Rapporteur also expressed concern that prolonged application of emergency measures established in 1991 and 1992 seriously endangered the protection of human rights. Those regulations are still in force. Therefore, he once again reiterates his appeal and emphasizes that the undue prolongation of such regulations is incompatible with the process of creating a democratic State governed by the rule of law.

C. Treatment of minorities

102. The Special Rapporteur continues to receive information on cases of harassment and discrimination against persons of Serbian origin. Many cases of criminal harassment are not reported to the police because of fear. Allegedly, in several cases persons of Serbian origin were arrested without just cause and subjected to interrogation in which violence was used. However, in some cases, disciplinary measures have been taken against police who used violence.

103. The Special Rapporteur has been informed that, from February to May 1994, a media campaign against some Serbian medical staff in the Rovinj hospital was conducted by different persons among whom were important Croatian politicians. Three wounded Croatian soldiers treated in the Rovinj hospital accused the non-Croat staff, including doctors, of abusing, mistreating and provoking them. The chairman of an ad hoc parliamentary commission established to verify the allegations was the first to question the validity of the accused doctors' certificates of citizenship. The Minister of Health, Mr. Andrija Hebrang, in an interview in Novi List (24 February 1994), declared his belief that the conflict was caused precisely by the presence of Serbian staff in a Croatian hospital. He stated: "In the middle of Istria, in Rovinj, you have a national composition where 30 per cent of the staff in the hospital is not of Croatian origin; this is not a situation which was created by chance by the former Yugoslav regime." He further stated that the conflict could not be resolved because "our invalids and those staff people" remained living together in the hospital. The Croatian media produced numerous sensationalized, one-sided reports accusing the doctors of various offences. The accused staff received a number of threats. The field staff of the Special Rapporteur have gathered credible evidence indicating that the accusations against the staff in question were false; in fact, the issue disappeared quickly from the public agenda and, since May 1994, has scarcely been mentioned in the media. However, the Special Rapporteur is concerned that the honour and dignity of the accused persons have been seriously violated and no steps have been taken to restore them.

D. Illegal and forced evictions

104. Since the Special Rapporteur's sixth periodic report, the situation regarding illegal and forced evictions in Croatia has not changed fundamentally. However, it must be noted that, since March 1994, no reports have been received of illegal and violent evictions carried out by soldiers on active duty from apartments which used to belong to the Yugoslav National Army (ibid., paras. 97-98). Nevertheless, although practically all the cases investigated by the field staff occurring prior to March 1994 involved soldiers on active duty, in violation of Croatian law, the authorities have adopted neither criminal nor disciplinary measures to sanction them. Furthermore, no measures have been taken for financial compensation of victims of illegal and forced evictions.

105. The field staff of the Special Rapporteur have received numerous reports of failure to implement judicial decisions taken in favour of evictees. In some cases, this failure has been justified by the presence of displaced persons in the occupied apartments. For example, the Chairman of the Housing Commission of Karlovac stated in a letter addressed to an evictee: "When the implementation of the Vance peace plan is undertaken, with the assistance of UNPROFOR, and when displaced persons begin to go back to their villages, then the eviction of displaced persons from State-owned apartments will also be examined."

106. A new wave of evictions is in process, based on the Regulation on the Ban on Disposal of Real Estate on the Territory of the Republic of Croatia of 24 July 1991 (Narodne Novine, No. 36, 24 July 1991, p. 983), which provides, inter alia, for the prohibition of the disposal of real estate belonging to the bodies and institutions of the former Socialist Federal Republic of Yugoslavia, including the Yugoslav National Army, from 24 July 1991. According to the interpretation given to this Regulation by the Croatian authorities, all decisions giving a right of tenure to new tenants taken after 24 July 1991 are void. Some 3,600 evictions have since been announced by the Government. However, the interpretation as well as the validity of the Regulation give cause for concern and the Constitutional Court of Croatia has taken up the matter for consideration. With reference to international human rights instruments, the Special Rapporteur wishes to stress that the implementation of the disputed Regulation has violated the right to due process, as well as the right not to be subjected to arbitrary or unlawful interference with privacy or home and the right not to suffer discrimination on grounds of national or social origin.

107. Local non-governmental organizations and tenants have requested that Croatian authorities stop all evictions until a general solution is found regarding the apartments once belonging to the Yugoslav National Army. It seems that most scheduled evictions have been postponed in part because of the presence of local and international observers. On one recent occasion, nine local observers were taken from a disputed apartment to a police station and interrogated. On 27 September 1994, members of local non-governmental organizations and other persons were severely beaten by the police during an eviction. On 12 October 1994, members of the Croatian Military Invalids of the Patriotic War (HVIDRA) effected an eviction from a military apartment in Zagreb despite the absence of a legally binding court decision. On that occasion, the police did not intervene to protect the tenants.

108. It is of great concern that the evictions have been accompanied by statements of high officials justifying the eviction policy and calling for collective responsibility of certain categories of persons, such as persons of Serbian origin, for events which have occurred during the war in Croatia.

109. The Special Rapporteur received assurances from the authorities that a Commission of Control would be created to regulate the activities of the Housing Commission established pursuant to the Law on the Provisional Use of Apartments of 4 December 1991 (see E/CN.4/1994/110, para. 95). However, he has never been informed of the results of the Commission's work. Furthermore, the recent proposal for a modification of the Law on the Sale of Apartments allowing the sale of apartments which used to belong to the Yugoslav National Army does not appear to provide guarantees for the legal tenants.

110. In his letter of 15 August 1994, the Special Rapporteur mentioned four characteristic cases of illegal and forced evictions. In his reply, the Minister of Foreign Affairs provided some information about three of the cases. In the Minister's view, two evictions were not illegal and another was still before the court. The Special Rapporteur is concerned by the fact that all four tenants were evicted violently and without due process.

111. On 12 October 1994, the Special Rapporteur also wrote to the Government about the continuing practice of illegal and forced evictions, pointing out that the Government of Croatia was under an obligation arising, inter alia, from its international commitments to take effective measures to stop such evictions. He also asked for the report on two individual cases. In his letter of reply dated 14 October 1994, the Minister of Foreign Affairs promised to submit answers concerning those cases in the near future. He also pointed out that the issue of evictions was soon to be discussed by the Government and Parliament of the Republic. He expressed his conviction that the issue would be successfully resolved with full protection and respect for human rights.

E. The situation of aliens and refugees

112. According to UNHCR statistics, as of 22 July 1994 there were a total of 190,816 Croatian and other non-Serb displaced persons in Croatia, having come from areas under the control of the so-called "Republic of Serbian Krajina". Estimates of the number of persons of Serbian origin who have left the Republic of Croatia since 1991 range from 100,000 to 300,000. The situation of refugees and displaced persons constitutes a major burden for Croatian society.

113. In his fifth periodic report (E/CN.4/1994/47, para. 118), the Special Rapporteur expressed concern about the policy of "continuity" between citizenship obtained from the previous Socialist Republic of Croatia (a constituent unit of the former Socialist Republic of Yugoslavia) and citizenship of the Republic of Croatia. This has the effect of arbitrarily relegating to the status of aliens all those citizens of the former Socialist Republic of Yugoslavia who enjoyed lawful residence in the Socialist Republic of Croatia, but who did not enjoy Croatian republican citizenship.

114. The Special Rapporteur has been informed of the existence of three alien reception centres in Croatia where people who received expulsion or banishment orders, or whose residence permits were revoked, or who reside without authorization in Croatia but have not been expelled, are detained pursuant to the Law on the Movement and Residence of Aliens (Narodne Novine No. 53, 8 October 1991, pp. 1482-1489). The field staff have investigated many cases at the alien reception centres in Dugo Selo near Zagreb, where aliens are held who were not subjected to criminal proceedings. None of these persons received a judicial or administrative decision confining them in one of the centres for a specified period of time. Judges for petty offences are competent to order expulsions or to revoke residence permits. It is not possible for an alien to regularize residency status when such an order has been issued. According to a representative of the Office for Migration in the Ministry of Internal Affairs, an alien is assigned to an alien reception centre when there is no agreement with the embassy of the country of which the alien is a citizen to transfer him or her to that country. Some of the aliens interviewed by the field staff have no citizenship in a third country. They were all former citizens of the former Socialist Republic of Yugoslavia and had been living in Croatia for many years, most of them with families and real property there.

115. The field staff of the Special Rapporteur verified that detainees at the Dugo Selo alien reception centre were under police guard and that living conditions were unacceptable, even though Croatian authorities promised in March 1994 to renovate the barracks where the centre is situated. During recent months, however, there have been no reports of physical mistreatment.

116. According to a July 1994 census of the Office for Displaced Persons and Refugees of the Republic of Croatia, which was financially and technically supported by UNHCR, there are 179,809 refugees from Bosnia and Herzegovina in Croatia. The situation of some refugees who came from the territory of what is now the Federation of Bosnia and Herzegovina is an area of concern. Indeed, the Croatian authorities decided at the beginning of September 1994 to withdraw the refugee status of Bosnians coming from areas under Federation control. Upon the intervention of UNHCR, the decision was amended to limit its application to persons arriving after the decision was issued. Thus, since 9 September, persons arriving from the Federation area no longer qualify to be registered as refugees. There have been instances, however, where the regional and local offices of the Office for Displaced Persons and Refugees have denied renewal of registration to persons who arrived before that date. Because Bosnian Croats are normally able to enter and remain in Croatia, the effect of the denial of registration is more serious for Bosnian Muslims, who not only lose their entitlement to humanitarian assistance but are also in danger of refoulement to Bosnia and Herzegovina. Since refugee registration has to be renewed every three months, the situation is being monitored closely by UNHCR.

117. The Republic of Croatia has concluded bilateral agreements with some countries in western Europe for the repatriation of its citizens. Bosnian Croats with Croatian citizenship have been included among those returnees because, being citizens of Croatia, they can in theory benefit from its international protection. Many, however, are put under pressure to return to Bosnia and Herzegovina because they are not able to register or receive assistance or because they cannot choose their place of residence. Moreover,

further to his sixth periodic report (see E/CN.4/1994/110, para. 94), the Special Rapporteur has been informed that Croatian citizens with domicile in Bosnia and Herzegovina are still subjected to discriminatory treatment in obtaining employment and social benefits, through the refusal of the Croatian authorities to issue appropriate official documents.

118. The Special Rapporteur has been informed that refugees from northern Bosnia, driven out by Bosnian Serbs and now in Croatian Serb-controlled territory, have had their access to the Republic of Croatia restricted. Thus, in September 1994, more than 600 refugees from northern Bosnia were accommodated by UNPROFOR in Croatian Serb-controlled territory, owing to the Croatian authorities' refusal to let the refugees pass. Among those refugees, reportedly, were Bosnian Croats with Croatian citizenship as well as Bosnian Muslims with Croatian transit visas. In addition, since late August 1994 some 30,000 externally displaced persons from the Bihac pocket in north-western Bosnia have been living in two makeshift and dangerous camps in another Croatian Serb-controlled area of Croatia near the city of Karlovac. It seems that at least some of them may have a justifiable fear of possible persecution if they are forced to return to Bosnia and Herzegovina. Therefore, it would be desirable for the Republic of Croatia to adopt a more flexible policy towards these people.

119. The Special Rapporteur notes with regret the steps undertaken in July 1994 by the Office for Displaced Persons and Refugees to empty the "Veli Joze" refugee camp in Borozija (Istria) of its 1,200 mostly Muslim occupants. Among these steps, verified reports indicate that, since 19 July, no food was distributed except to children under seven years old, elderly people and those needing medical care. Electricity was cut off. Moreover, the police prevented access to and from the camp. The refugees were ultimately allegedly relocated by force in five other camps around the country. The field staff interviewed some of the relocated refugees, who complained about violence used against them and their children in the early morning of 28 July 1994, when the police and special forces entered the camp. In his letter to the Special Rapporteur of 30 September 1994, the Minister of Foreign Affairs denied that force was used against the refugees. The Special Rapporteur has also received information that many Muslim refugees in Croatia wish to return to Bosnia and Herzegovina because of the insecurity they feel in Croatia. It was reported that about 160 refugees in Pula returned to Bosnia and Herzegovina in mid-1994.

F. Draft, military service and conscientious objection

120. In his sixth periodic report (E/CN.4/1994/110, paras. 94 and 103), the Special Rapporteur noted that, in December 1993, Croatian citizens born in Bosnia and Herzegovina, as well as Bosnian refugees, were singled out for forced recruitment. Those who refused to be mobilized were subjected to a disciplinary measure of 30 days' detention in army camps. The field staff of the Special Rapporteur were informed at that time by the authorities that those men would not be criminally prosecuted later. Nevertheless, criminal investigations were initiated against some of them in May-June 1994; some remain under investigation, while others have now been charged under articles 153 (non-execution and refusal to execute orders), 166 (non-response to call-up and

avoiding military service) and 169 (arbitrary abandonment of military service) of the Criminal Code of the Republic of Croatia. It was never admitted that the proceedings were instituted because of the men's refusal to fight in Bosnia and Herzegovina, although in fact their refusals were linked to their unwillingness to be sent to fight in a country with which Croatia was not at war. There is no provision of the Criminal Code of the Republic of Croatia strictly applicable to refusal to fight in a third country. The Special Rapporteur has not received information that any trials have yet taken place.

121. The Special Rapporteur is concerned about the manner in which applications for avoidance of military duty based on conscientious-objector status are currently being adjudicated in the Republic of Croatia. Available evidence indicates that the application periods for civil instead of military service are unduly limited (reservists had only one year in which to apply, which period ended on 26 May 1994, while new conscripts must apply within three months of conscription). Many conscientious objectors missing these deadlines consequently are placed on military duty or imprisoned. Moreover, numerous conscripts and reservists have reportedly been prevented by obstructive tactics on the part of local Offices of Defence from submitting their requests within the required time. Some of these persons, most of whom are of Serbian origin, have subsequently been forced to meet military obligations or have been sentenced to imprisonment by military courts for their refusal to do so, while others have left Croatia. It is also a matter of concern that requests for conscientious-objector status do not temporarily suspend an applicant's mobilization. The Special Rapporteur has received reports that numerous reservists have been mobilized before the Commission for Civil Service has acted on their applications.

122. The Special Rapporteur notes with concern information he has received about mobilizations of Croatian citizens of Serbian origin in Karlovac and elsewhere. It has been reliably reported that such persons who were drafted in Karlovac were subjected to physical mistreatment and humiliation by military authorities. Information has been received, for example, that soldiers of Serbian origin were forced to sing extreme nationalistic songs while digging trenches on the front line.

123. In some cases, the draft has allegedly been used as a weapon against those whose activities relate especially to the protection of human rights. The Special Rapporteur has received complaints that two lawyers working together on numerous human rights cases in Dubrovnik were drafted into the Croatian Army in June and July 1994, allegedly for the express purpose of preventing them from pursuing their legal work. In his reply to the Special Rapporteur's letter of 15 August 1994, the Minister of Foreign Affairs stated that, since these two persons were Croatian citizens fit for military service, they had the rights and duties provided for in the Constitution of the Republic of Croatia and the Law on Defence, which duties included military service.

G. Process of reconciliation - visit of Pope John Paul II

124. The Special Rapporteur, in his previous reports, frequently pointed out that it was imperative to overcome in public life the atmosphere of hatred and intolerance resulting from conflicts in the territories of the former Yugoslavia. He also pointed out the role of the media and of representatives of religions and churches in that process. During his missions he realized that the attitude of some of the clergy did not always contribute to the overcoming of nationalistic feelings in spite of frequent conciliatory statements, mostly by Cardinal Kuharic. These problems are particularly detrimental because, in the whole conflict, far too frequently different religions have been misused for political reasons. From this point of view, the visit of Pope John Paul II to Croatia on 10 and 11 September 1994, in which hundreds of thousands of people participated, was a remarkable event. The Pope's unequivocal condemnation of chauvinism, hatred and policies of discrimination by the use of force and his call for reconciliation should have a positive influence on the situation in Croatia and in the whole region.

H. Conclusions and recommendations

125. In his sixth periodic report, the Special Rapporteur took note of the considerable decrease in violations of international humanitarian law in Croatia. This situation remains unchanged. Nevertheless, he also expressed concern about serious human rights violations and patterns of discriminatory treatment against minority groups, as well as arbitrary practices on the part of the authorities. The Special Rapporteur regrets that some of his previous concerns remain inadequately addressed.

126. The Special Rapporteur expressed concern regarding the practice of detaining illegal aliens. The Croatian authorities justify the practice by the fact that it is also exercised in other countries. While acknowledging that argument, the Special Rapporteur is of the opinion that such measures should not apply to persons whose status as aliens is a result of the problems arising from the dissolution of the former Socialist Federal Republic of Yugoslavia.

127. The Special Rapporteur recommends that all necessary measures be taken to strengthen the independence of the judiciary.

128. The Special Rapporteur recommends that all evictions from former Yugoslav National Army apartments be stopped until a general solution to this housing issue is found with the participation of local non-governmental organizations, and that adequate measures for compensation be adopted.

129. Further to his previous recommendations, the Special Rapporteur wishes to remind the international community of the urgent need for humanitarian assistance for refugees and displaced persons in the Republic of Croatia.

130. In that connection, the Special Rapporteur urges that the Republic of Croatia grant access to all bona fide refugees from Bosnia and Herzegovina, in accordance with international law.

131. The Special Rapporteur strongly recommends that criminal proceedings be abandoned against persons who refused to join the Croatian Army because they were unwilling to be sent to Bosnia and Herzegovina to fight an undeclared war. He further recommends modification of the Law on Defence to eliminate time-limits for applications for conscientious-objector status. He finally recommends that persons who did not apply in time be neither mobilized nor prosecuted.

132. The Special Rapporteur recommends that the Government of the Republic of Croatia continue on the path of improvement of human rights by strengthening its national infrastructure for the promotion and protection of human rights. In this regard, the Government can request from the Technical Cooperation Branch of the United Nations Centre for Human Rights the identification of the country's particular human rights assistance needs and the preparation of programmes specifically designed to address those needs in a comprehensive and coordinated manner.

I. The situation in the United Nations Protected Areas

133. The findings presented below are largely based on firsthand information gathered by the Special Rapporteur's field staff. Throughout the year the field officers have managed to maintain contacts with the local de facto authorities of the so-called "Republic of Serbian Krajina" and have thus been able to enter the areas in question in order to collect data and verify reports of human rights abuses. However, security considerations and logistical difficulties have sometimes put limits on the work of the field staff.

134. In this context, the Special Rapporteur would like to note that, to date, most studies and reports regarding the human rights situation in the UNPAs have focused on the conditions under which the local minority groups live. At times this approach has overshadowed the situation of the population at large. Therefore, in his forthcoming report to the Commission on Human Rights, the Special Rapporteur intends to widen the scope of his reporting to encompass the situation of human rights of the entire population within the UNPAs.

Security of the person in the United Nations Protected Areas

135. In his fifth and sixth periodic reports (E/CN.4/1994/47, para. 145, and E/CN.4/1994/110, para. 108), the Special Rapporteur drew attention to the prevalence of lawlessness in the UNPAs and the lack of adequate protection for non-Serb populations remaining in the Serb-controlled municipalities. Since the submission of those reports, the Special Rapporteur has received information indicating that the situation remains unchanged in most of these areas, and that the non-Serb ethnic populations remaining continue to experience various forms of physical violence and insecurity. It should be noted that a large proportion of the minority groups in the area have already found themselves obliged to leave their homes as a result of violence and harassment.

136. According to UNHCR statistics from 1994, 800-900 Croats, many of whom are elderly or disabled, have remained in UNPA Sector South. It is estimated that 44,000 Croats lived in the area before the conflict broke out in 1991.

Demographic estimates for UNPA Sector North from 1994 indicate that, out of a total population of 112,000, 1,000 are Croats and Muslims who have remained despite earlier "ethnic cleansing".

137. UNPA Sector West is unique in that 80 per cent of its surface area is under Croatian control. Figures show that, in 1991, before the war, the total population of Sector West was 90,640. Current estimates indicate that the population has declined to 70,000-75,000 inhabitants. Both the Serbian and the Croatian portions of this sector are characterized by low numbers of minority residents. On the Serb side of Sector West, there remain only 200-300 Croats, most of whom are elderly and/or sick. In addition there are some Czech and Italian settlements in the Daruvar and Lipik areas. It is estimated that some 1,200 Serbs remain in the Croatian part of the Sector.

138. According to the 1991 census, in UNPA Sector East, ethnic Croats and Hungarians constituted more than 50 per cent of the overall population (see E/CN.4/1994/47, para. 157). In 1994, the United Nations Civilian Police (UNCIVPOL) census estimated the remaining non-Serb population at 15 per cent of the total population (10,000-15,000), consisting mainly of Croats (10 per cent of the total population) and Hungarians.

139. Although the number of non-Serbs in the UNPAs has decreased, owing to earlier and more intense campaigns of "ethnic cleansing", the strategies by which this process has been propelled remain in effect. Thus the remaining non-Serb population continues to be the target of armed robbery, looting, theft, ill-treatment, intimidation and various forms of discrimination. It appears that refugees, displaced persons and other groups of civilians are responsible for the majority of these acts. As a result, members of the non-Serb population continue to leave the areas controlled by the so-called "Republic of Serbian Krajina". However, it should be noted that, although most of the violence is directed against the minorities, the Serb population in these areas also finds its situation less and less secure. The following examples are illustrative of the violent atmosphere which currently prevails in the UNPAs.

140. In UNPA Sector East, a Muslim man in Dubosevica reported that, on 4 April 1994, he was severely beaten by three armed men who stormed into his house. Allegedly, the men also stole tools and other equipment. On 20 May 1994, in Drnis, UNPA Sector South, a Croat farmer reported that a group of Serb refugees from the village of Divoselo were coming to his house daily to threaten and ill-treat him and his mother. In addition, the refugees reportedly robbed the man of his agricultural tools and implements. Moreover, in Daruvar, UNPA Sector West, it was reported that an unidentified person threw a hand-grenade through the window of a hairdressing salon belonging to a Serb woman; the owner further reported that, prior to the incident, ethnically charged threats had been written on her window. On 12 September 1994, a Croat woman from the village of Kozarac in Sector South reported that a hand-grenade had been thrown into her garden by unidentified attackers.

The administration of justice

141. Within the areas under its de facto control, the so-called "Republic of Serbian Krajina" has established a system of courts and militia units to perform

the duties of the judicial and law enforcement authorities. However, reliable reports verified by the field staff of the Special Rapporteur suggest that on numerous occasions these courts have been either marginalized or manipulated by the local militia, especially in cases involving members of the Croat minority. Furthermore, the role of the judiciary is often marginalized when members of the local militia conduct mass arrests of civilians without securing arrest warrants or informing courts about such arrests. Numerous cases in which persons have been convicted without a trial have also been reported. The Special Rapporteur further notes that UNCIVPOL and the local militia have, in UNPA Sectors South and North, increased their level of mutual cooperation. However, as noted above, an atmosphere of insecurity still prevails in the areas controlled by the so-called "Republic of Serbian Krajina".

142. The Special Rapporteur has been informed that, on 11 August 1994, Mr. Edo Vencl, a Croatian displaced from Petrinja, was charged in the District Court of Glina with war crimes, for which he was convicted and sentenced to five years in prison. It appears that none of the witnesses presented by the prosecutor actually testified to having seen the accused committing any act which could be construed as a war crime. It is further alleged that the conviction was mainly based on hearsay, which was not legally admissible, and that the prosecution failed to meet the burden of proof. Reportedly, Mr. Vencl was beaten by prison guards while he was detained in the Glina prison.

143. Moreover, in July 1994, the Special Rapporteur was informed by reliable sources that an unknown number of individual prisoners, most of them belonging to the opposition in the so-called "Republic of Serbian Krajina", were arbitrarily rearrested by the militia, after having completed their prison sentences in Sector North. These persons were reportedly sent to the Nova Gradiska prison near Okucani, Sector West, by the local militia without the knowledge of the courts in Sector North. Efforts by the field staff of the Special Rapporteur to gain access to the prisoners were frustrated by the militia.

144. With regard to prison conditions in the "Republic of Serbian Krajina"-held territories, the Special Rapporteur wishes to draw particular attention to the situation in the prisons in Vojnic and Glina. The field staff of the Special Rapporteur have visited these prisons on several occasions and found the living conditions in them to be difficult. It has been reported that some of the inmates in Glina prison have been subjected to ill-treatment. Recently, mass arrests of refugees coming from Bihac have reportedly resulted in serious overcrowding of the prison cells, which in turn has made the conditions in Vojnic prison intolerable.

The situation of refugees and displaced persons

145. According to UNHCR statistics of 7 October 1993, there were 38,174 displaced persons and refugees in UNPA Sector South (see E/CN.4/1994/47, para. 149). Many of these displaced persons and refugees occupy buildings abandoned by owners who had fled earlier bouts of "ethnic cleansing". These people depend mainly on aid from the local Red Cross for their sustenance.

146. Some 23,000 inhabitants of UNPA Sector North are displaced persons and refugees. Most of these people reside with relatives, or in houses from which the owners have fled. They depend for humanitarian support on international organizations and local authorities. UNPA Sector North is also a sanctuary for up to 30,000 Bosnian Muslim externally displaced people from the Bihac pocket.

147. According to Croatian and Serbian statistics - drawn from the Croatian Office for Displaced Persons and Refugees and the Commission for Displaced Persons and Refugees of the so-called "Republic of Serbian Krajina" - a total of 12,032 displaced persons were registered in UNPA Sector West as of 31 January 1994. Displaced persons were distributed almost evenly in the two ethnic portions of the sector: 5,974 persons in the Croat-controlled municipalities and 6,058 in municipalities controlled by Serbs. In addition, Sector West has 5,370 refugees from Bosnia and Herzegovina and the Federal Republic of Yugoslavia (Serbia and Montenegro) in the areas under Croatian control. Finally, an unknown number of refugees of Serbian origin from Bosnia currently live in the Serbian part of Sector West.

148. Although the Cease-fire Agreement of 29 March 1994 between the Croatian Government and the so-called "Republic of Serbian Krajina" did not expressly provide a mechanism by which persons displaced from their homes in the UNPAs could return to their homes, it was, nevertheless, implicitly hoped that the agreement would facilitate the return of displaced persons. A preliminary step in this direction was taken with the agreement by the Croatian Government and the "Republic of Serbian Krajina" to allow the return of displaced persons to villages in the separation zones, that is, the zones that separate the forces of the Croatian Government and those of the "Republic of Serbian Krajina". Such zones currently exist under the control of UNPROFOR. The parties, together with UNHCR and UNPROFOR, are discussing a pilot project for voluntary return to a few selected areas. The Special Rapporteur has further been informed that, although the Cease-fire Agreement provides for the freedom of movement of civilian populations within the separation zones, local authorities have continued to restrict the movement of the civilian population of these areas.

149. The field staff of the Special Rapporteur have reported that more than 25 displaced Croatian citizens of Serbian and Croatian origin, whose properties are located inside the separation zones, were arrested by the Serb authorities between June and August 1994 while attempting to visit their homes. The field staff have followed these cases of arrest closely and verified that ethnic discrimination has occurred in the sentencing process. Although all of those arrested were charged with illegal crossing into the "Republic of Serbian Krajina", ethnic Serbs from Croatia were sentenced to 5 days' imprisonment, whereas ethnic Croats were sentenced to 10 days' imprisonment.

150. In the Croatian part of UNPA Sector West, the municipalities of Daruvar, Grubisno Polje and Pakrac passed a regulation which defined houses left behind by their owners as officially abandoned and thus available for habitation by displaced persons and refugees.

151. The field staff of the Special Rapporteur have received and verified information that a number of municipalities (Ilok, Vukovar, Beli Manastir and Batina) in UNPA Sector East have adopted a regulation which provides for the

accommodation of displaced persons and refugees with minority families. The Ilok municipality has further adopted a regulation which prohibits those who are due for transfer/exchange from selling their properties.

152. In UNPA Sector West, the system for the exchange or swapping of immovable properties continues to facilitate the division of the population along ethnic lines. Local real estate agents and the local Red Cross help in arranging these property transactions. The residents (mainly Serbs) of Daruvar, Novska, Nova Gradiska and Zagreb are put in touch with residents (mainly Croats) of the Banja Luka area in Bosnia to negotiate a property exchange deal. Once the parties have agreed, the real estate agents prepare the contract, which the parties sign. The contract is then deposited with a local land registry.

153. The Croatian municipalities in Sector West have so far this year reported some 157 such property transactions. The field staff of the Special Rapporteur have been informed that the Croatian authorities have begun to review these property transactions because they impinge on displaced persons' and refugees' right of occupation of abandoned houses.

Forced unremunerated labour

154. Cases of forced or unremunerated labour reported from UNPA Sector North are being monitored carefully by the field staff of the Special Rapporteur. In March 1994, it was brought to the attention of the international organizations that seven Croats from Golinjas village, Vrginmost municipality, who were mobilized by the local authorities to go to the front lines, were sent instead to perform unpaid labour at a private road-maintenance company. An investigation of this company revealed that, among 22 workers (15 Serbs and 7 Croats), only the Serb workers were paid for their work; the Croat workers were compelled to work with no remuneration. It was later reported that, in September 1994, the company management changed its policy and began to pay its Croat workers.

Freedom of expression and association

155. In his fifth periodic report (E/CN.4/1994/47, para. 133), the Special Rapporteur expressed concern regarding the current use of indoctrination and disinformation as a means of spreading divisiveness and animosity in the former Yugoslavia. Issues relating to the situation of the media in the former Yugoslavia will be dealt with in a forthcoming thematic report. Nevertheless, the Special Rapporteur wishes to seize this opportunity of addressing some of his main concerns with regard to the UNPAs.

156. The Special Rapporteur has received reports about the political victimization of members of the Radical Party of Serbia who have refused to participate in political life in the so-called "Republic of Serbian Krajina", and of others who profess an independent perspective. People who hold views contrary to those of the leadership tend to suppress them, in order not to be declared enemy agents or traitors.

157. With regard to freedom of expression in the so-called "Republic of Serbian Krajina", the Special Rapporteur notes that opportunities for disseminating

ideas via visual and printing facilities are limited. Each sector within the "Republic of Serbian Krajina" has a radio station for public information. News about the war situation dominates the reporting. There is one television station for the "Republic of Serbian Krajina", which is linked to Pale TV in the Serb-held territories of Bosnia and Herzegovina. Its programming is drawn from Pale and Belgrade. No daily newspapers appear in the so-called "Republic of Serbian Krajina". The sole newspaper, published in UNPA Sector North, is a small biweekly, The Serbian Voice. The newspaper's reputation for outspokenness has reportedly led local authorities to harass its journalists on a routine basis. Most other daily or weekly newspapers and journals that cross into the "Republic of Serbian Krajina" come directly from Belgrade and Pale.

158. The Special Rapporteur has further been informed that, on 28 August 1994, in Beli Manastir, UNPA Sector East, two Croat journalists, Steve Gaunt and Anita Rajkovic, were arrested in the separation zone by "Republic of Serbian Krajina" authorities and charged with espionage. They were reportedly released on 29 September 1994 in response to an intervention by UNPROFOR, Civil Affairs.

Conclusions and recommendations

159. The Special Rapporteur finds it discouraging to note that the general human rights situation in the UNPAs has remained more or less unchanged since the submission of his earlier reports. A cause for particular concern is the ongoing violence, harassment and intimidation directed against members of the minority groups which still remain in the areas.

160. The Special Rapporteur calls upon the local authorities to ensure the protection of the most vulnerable members of their communities and to bring extremists under control. He further reminds the leadership of the so-called "Republic of Serbian Krajina" of its responsibility to maintain order and to secure the right to a fair and just trial under all circumstances in the territories under its control.

161. The Special Rapporteur urges both the Government and the de facto "Republic of Serbian Krajina" authorities to refrain from adopting measures which would purport to legitimize the occupation of property left behind by those who departed fearing ill-treatment. Such measures would compromise further the conditions for return of the original residents.

III. FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

A. Introductory remarks

162. The Special Rapporteur notes the fact that, owing to the refusal of the Government to permit the establishment of a field office in the Federal Republic of Yugoslavia (Serbia and Montenegro), he has been unable to collect firsthand information concerning the human rights situation in that country. In view of this fact, the Special Rapporteur finds it even more discouraging to note that the Government has, since the submission of his sixth periodic report, rejected all his requests to send missions to the country in order to investigate recent allegations of human rights abuses.

163. It should further be noted that the Government's reluctance to cooperate with the Special Rapporteur is in contravention of paragraph 30 of Commission on Human Rights resolution 1994/72, in which the Commission

> Demands that the Federal Republic of Yugoslavia (Serbia and Montenegro) permit entry into Kosovo, Sandjak and Vojvodina of United Nations observer missions and field officers of the Special Rapporteur and resumption of the missions of long duration of the Conference on Security and Cooperation in Europe.

164. The Special Rapporteur notes with concern that foreign journalists are facing difficulties in performing their duties in the Federal Republic of Yugoslavia (Serbia and Montenegro), a fact illustrated by the withdrawal of the accreditation of 13 foreign correspondents in April 1994.

165. The Special Rapporteur has also taken note of the comments on his sixth periodic report by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) (E/CN.4/Sub.2/1994/45). The Special Rapporteur presented his remarks on these comments in a letter dated 26 August 1994 to the Chairman of the Commission on Human Rights, which is annexed to the present report.

166. By letter dated 16 September 1994, the Special Rapporteur informed the Minister for Foreign Affairs of the Federal Republic of Yugoslavia (Serbia and Montenegro) of his main concerns regarding the human rights situation in the country, and invited the comments of the Government. As of the date of publication of the present report, no substantial reply has been received by the Special Rapporteur.

167. The Special Rapporteur has been unable to collect and verify information on-site. In order to carry out his mandate, he has been obliged to base his research on information received from a wide range of sources, including international governmental organizations, local and intergovernmental organizations and private individuals. In this regard, the Special Rapporteur wishes to express his particular gratitude to the following local non-governmental organizations, all based in Belgrade: the Humanitarian Law Fund, the Centre for Anti-War Action and the newly founded Helsinki Committee for Human Rights in Serbia.

B. Serbia

Security of the person and the decline of the rule of law

168. A cause for great concern in the Federal Republic of Yugoslavia (Serbia and Montenegro) in general, and in the Republic of Serbia in particular, is the continuing violence and the apparent incapacity or reluctance of the police forces to control the situation and to restore respect for fundamental human rights. The Special Rapporteur has continued to receive information according to which law enforcement officials have, on numerous occasions, chosen not to interfere in situations where persons, often but not exclusively belonging to ethnic or religious minorities, have been harassed or ill-treated by paramilitary units or groups of civilians.

169. In recent times, the Serbian police have allegedly increased their presence in public places and performed a large number of seemingly unmotivated identity checks and vehicle controls. This practice has reportedly resulted in a tense atmosphere of fear and insecurity. The Special Rapporteur has also received a number of reports of excessive use of force by the police. This violence appears to be directed mainly, but not exclusively, against members of minorities and the political opposition, as well as teachers, students and academics. A particularly brutal incident was reported to have taken place in the "Slavia" Square in central Belgrade on 19/20 July 1994. Allegedly, between midnight and 2 a.m., two unidentified men were intercepted by a police patrol. The two men, who reportedly offered no resistance, were then handcuffed and brutally beaten and kicked by the police officers. Allegedly, a senior police officer who arrived at the scene did nothing to stop the ill-treatment.

170. In this context, the Special Rapporteur also wishes to draw attention to the letter of 21 July 1994 sent by the Special Rapporteur on the question of torture, Mr. Nigel S. Rodley, to the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro). In that letter, the Special Rapporteur listed a large number of cases of torture and severe ill-treatment of men, women, children and elderly persons, reported to have occurred in the Federal Republic of Yugoslavia (Serbia and Montenegro), particularly in the province of Kosovo.

Discrimination on ethnic and political grounds

171. During recent months, the Special Rapporteur has received a number of reports describing cases in which members of minorities have been evicted from their apartments or lost their jobs, for no other apparent reason than their ethnic or religious background. Most of these cases appear to have taken place in locations outside Belgrade, especially in the region of Sandzak and in the provinces of Kosovo and Vojvodina. The authorities seem to be slow and reluctant to take appropriate action to prevent such cases of discrimination. In late September 1994, it was reported that Dr. Vladimir Erceg was being evicted from his home in Belgrade by the authorities of the Savski Venac commune. Allegedly, the decision to evict him was not based on a court order. It was further reported that Dr. Erceg had been dismissed from his position as a university professor on 30 September 1994. Allegedly, these measures were taken because of Dr. Erceg's Croatian origin. In a letter of 6 October 1994, the Special Rapporteur requested the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to clarify the grounds on which the decisions to evict and dismiss Dr. Erceg were made. To date, the Special Rapporteur has received no answer.

172. An illustrative example of discriminatory abuse of legislative acts is the manner in which the Act of the Yugoslav Army, passed on 6 November 1993, has been implemented. According to paragraph 350 of this law, all officers and civilian employees of the army who are not citizens of the Republic of Serbia must, in order to remain in service, obtain their Serbian citizenship within six months from the entry into force of the Act. More recently, the Special Rapporteur has learned that the Ministry of Internal Affairs has on numerous occasions left unanswered applications for citizenship from persons affected by this law.

173. Several cases of discrimination on political grounds have also been brought to the attention of the Special Rapporteur. Members of the Serbian Renewal Movement and the Democratic Union appear to have been particularly exposed to dismissals, salary cuts and other discriminatory measures.

174. With regard to the cases of ethnic and political discrimination referred to above, the Special Rapporteur wishes to draw particular attention to article 26 of the International Covenant on Civil and Political Rights, according to which "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". The Special Rapporteur wishes to stress that the Covenant is legally binding on the Federal Republic of Yugoslavia (Serbia and Montenegro) and that, therefore, the Government is under an obligation to take legal measures to prevent dismissals, evictions or other similar acts which are clearly of a discriminatory nature.

Freedom of assembly and association

175. The Special Rapporteur has taken note of the new draft law, approved by the Federal Government, concerning political parties in the Federal Republic of Yugoslavia (Serbia and Montenegro). According to information received, this law would empower the Federal Ministry of Justice to initiate charges against a political party before the Constitutional Court, at any time, if there were suspicions that its statute might be contrary to the law or the Constitution. The activities of the party would be suspended during these often lengthy proceedings. This law, if enacted, could invest the Government with enormous powers, which ultimately might constitute a threat to freedom of assembly and association in the Federal Republic of Yugoslavia (Serbia and Montenegro).

176. With regard to the situation of trade unions, the Special Rapporteur notes that, during recent months, he has continued to receive reports describing unequal treatment by the Government and employers of the independent trade unions. Thus it has, for instance, been reported that trade union activists have on numerous occasions been subjected to mass dismissals. Moreover, the Special Rapporteur has taken particular note of a number of reports according to which 30 activists belonging to the independent trade unions have been arrested since January 1994.

The question of citizenship

177. The Special Rapporteur expresses his concern regarding the fact that the draft proposal for a new Citizenship Law is still awaiting approval by the Parliament. Because of the uncertainties currently surrounding this question, a reform of the existing legislation on citizenship is of the utmost importance. The present situation appears to be particularly problematic for two specific groups: (a) persons who held the old Socialist Federal Republic of Yugoslavia citizenship are resident in Serbia or Montenegro but do not hold Serbian or Montenegrin citizenship and who have not acquired citizenship of any other State of the former Yugoslavia; and (b) refugees and displaced persons from other parts of the former Yugoslavia who wish to take up residence in the Federal Republic of Yugoslavia (Serbia and Montenegro). Therefore, the Special

Rapporteur encourages the Government to take the steps needed in order to bring clarity to the question of citizenship in the Federal Republic of Yugoslavia (Serbia and Montenegro).

The situation of refugees

178. According to recent reports, during the first half of 1994 the Serbian authorities continued, albeit on a smaller scale than before, their practice of mobilizing persons with refugee status for service in armed units operating in the Serb-controlled regions of Bosnia and Herzegovina.

179. The Special Rapporteur is particularly concerned about the Refugee Act proposed in May 1994. If enacted, this law could reportedly result in the revision of the refugee status of up to 100,000 people currently living as refugees in the Federal Republic of Yugoslavia (Serbia and Montenegro).

180. The Special Rapporteur has further been informed that asylum-seekers, mostly Serbs and Muslims from Bosnia and Herzegovina arriving in Serbia, have been arrested or sent back by the Serbian authorities. Thus it has, for instance, been reported that, in late July 1994, a Muslim family from Prinjavor, seeking asylum in Serbia, was arrested and detained upon arrival in Sremska Mitrovica. A number of such incidents are reported to have taken place, particularly in the period July-September 1994.

181. In his fifth periodic report (E/CN.4/1994/47, paras. 222-226), the Special Rapporteur drew attention to the difficult humanitarian situation in the Federal Republic of Yugoslavia (Serbia and Montenegro). This situation appears to have remained more or less unchanged during the past six months. It is evident that the shortage of medical supplies, heating fuel, etc. has particularly severe consequences for the most vulnerable groups in society, that is, women, children, the elderly and refugees. It should be noted that the Federal Republic of Yugoslavia (Serbia and Montenegro) at present hosts 449,000 refugees. The extra burden this group constitutes on the country's already strained economy and infrastructure should not be underestimated. It is to be hoped that the steps and decisions contained in Security Council resolution 943 (1994) of 23 September 1994 will help to increase support for those persons currently in need of assistance.

1. The situation in Kosovo

182. Regular and consistent reports indicate that the situation in Kosovo has deteriorated further in the course of the past six months. The Special Rapporteur has taken note of some particularly disturbing reports according to which, during the period January to June 1994, more than 2,000 persons were taken to police stations for so-called "informative talks", lasting from hours to several days. A majority of these persons were allegedly subjected to severe ill-treatment and torture while detained by the police.

183. During the past month, there has reportedly been a drastic increase in the number of violent house searches, raids and arbitrary arrests by the law enforcement authorities. Most of the violence has reportedly occurred when the

police, under the pretext of looking for hidden arms or wanted persons, raided homes or entire neighbourhoods. During these searches, minors, women and elderly people have reportedly also been ill-treated, apparently because of their relationship to persons wanted by the police. These attacks appear to be controlled or at least condoned by the leadership of the law enforcement authorities. According to recent reports, in the period 1 January to 30 June 1994, more than 3,000 homes were searched and more than 1,700 persons subjected to police abuse in connection with the raids. A particularly brutal incident was reported from Podujevo, where the police, while conducting an identity check on 15 September 1994, violently forced the passers-by to lie down on the ground. Fourteen of these people were subsequently beaten brutally by police using truncheons.

184. Undue delays and serious irregularities have been reported in connection with court proceedings against a large number of ethnic Albanians accused of posing a threat to the territorial integrity of the Federal Republic of Yugoslavia (Serbia and Montenegro). The majority of the accused appear to be members of the Democratic League of Kosovo (LDK). One of the latest of these trials reportedly started in Prizren on 16 September 1994 against four ethnic Albanians, members of the League. It is alleged that two of the defendants were arrested as early as 24 May 1994, and that they have been kept in detention since that date. Moreover, it appears that these persons nave been subjected to severe ill-treatment during interrogations by the police.

185. Another cause for concern are the extremely difficult circumstances under which schools and other educational institutions work in Kosovo. It has been reported that, on 22 February 1994, the Government discontinued the activities of the Academy of Sciences and Arts of Kosovo and confiscated its building. Moreover, it is with great concern that the Special Rapporteur has taken note of reports according to which several Albanian primary and secondary schools have been forced to interrupt their work because of police harassment. Shortly after the beginning of the school year in early September 1994, it was reported that police entered the premises of several elementary schools. A particularly brutal incident was reported to have taken place in connection with a police raid on 1 September 1994 at the "Ibrahim Pervizi" elementary school in Mitrovica. During the raid, several teachers were reportedly severely beaten and kicked in front of their pupils by police officers. Two of the teachers allegedly had to seek medical care after the incident.

2. The situation in Vojvodina

186. Although the overall situation in Vojvodina appears to have improved during recent months, some cases of discriminatory treatment have allegedly occurred. According to reports, members of the political opposition and representatives of ethnic and religious minorities still experience difficulties in gaining access to the media. Furthermore, it appears that the number of ethnic Hungarians employed in the police force has been drastically reduced. With regard to the situation of the school system in the province, the Special Rapporteur wishes to note that, while the availability of Hungarian-language primary education appears to be more or less secured, only some 8 or 10 high schools provide classes in the Hungarian language. In addition, these high schools seem to be

spread all over the province and not, as could be expected, concentrated in areas with large minority settlements.

187. It is with particular concern that the Special Rapporteur has taken note of the bomb explosion reported to have occurred on 1 June 1994 outside the Franciscan church in Subotica. Although no casualties were reported, the incident must be seen as very serious and symptomatic of the tensions still prevailing in the region.

3. The situation in the region of Sandzak

188. In his sixth periodic report (E/CN.4/1994/110, para. 144), the Special Rapporteur noted a slight improvement in the human rights situation in Sandzak. Regrettably, this positive development seems to have come to a halt and given way to a new escalation of violence and harassment directed mainly against members of the Muslim community, especially in the regions at the border with Bosnia and Herzegovina. Reportedly, groups of armed civilians and paramilitary units crossing the border to Bosnia and Herzegovina bear the main responsibility for most of these actions. As noted before, the police appear to condone and, in some instances, even participate actively in these brutal attacks.

189. Reports and specific allegations indicate that the police have on numerous occasions used unjustifiable force in connection with so-called arms searches in both private homes and public places. The Muslim community in general, and members of the Party of Democratic Action (SDA) in particular, seem to be the main targets for these actions. Thus, under the pretext of looking for hidden arms, the police break into private houses and apartments. As a general rule, the inhabitants and other persons who happen to be present are then subjected to beatings and other forms of ill-treatment. During the period from February to March 1994, the police reportedly intensified their raids in the following villages: Karajukica Bunari, Ugao, Raskovice, Medjugor, Dunisice, Vapa, Bagasice, Citluk, Breza, Fijulje, Ursule, Dujke, Kladnica, Papici, Sugubine, Saronje and Borostica. Searches and mass arrests have reportedly also been carried out recently in a number of other villages in the municipalities of Pljevlja, Petnjica and Prijepolje. In connection with these arms searches, it was reported that some people who did not own firearms were ordered by the police to buy weapons and surrender them to the authorities. Many people have apparently followed these orders, in the hope of avoiding further harassment.

190. Allegedly, persons detained by the police are often held well beyond the statutory period of three days before being brought before an investigating judge. In order to extract self-incriminating statements or confessions, detainees are reportedly often ill-treated and subjected to torture, including severe beatings with truncheons and metal clubs, as well as electric shocks on all parts of the body.

191. According to information recently received, the 25 Muslims accused of threatening the territorial integrity of the Federal Republic of Yugoslavia (Serbia and Montenegro), referred to in the Special Rapporteur's sixth periodic report (ibid., para. 145), are still being detained in Novi Pazar. The Special Rapporteur notes that these persons have been kept in detention since

23 May 1993 and that court proceedings against them were instituted on 31 January 1994, some eight months after their arrest. Moreover, the Special Rapporteur recently received alarming reports according to which these persons had been subjected to severe ill-treatment and torture. Statements given under torture or extreme duress have allegedly also been used in the proceedings against the accused. It has further been reported that 16 of the detained began a hunger strike on 1 August 1994 as a protest against the undue delays in the court proceedings, after their trial had been postponed for the fifth time on 29 July 1994. For health reasons, the detainees reportedly ended their hunger strike after two weeks.

192. Moreover, the Special Rapporteur recently received reports of a most alarming nature indicating that Mr. Munir Sabotic, a shopkeeper from Novi Pazar, had been forced by the police to appear as a witness for the prosecution in the above-mentioned trial. On 31 August 1994, Mr. Sabotic was allegedly tortured and forced by officers of the State Security Service in Novi Pazar to sign incriminating statements to be used against the accused in court. It was further reported that Mr. Sabotic had appeared in court on 19 September 1994, and confirmed while giving testimony that the statements attributed to him had in fact been extracted under torture, and that therefore they were null and void. When Mr. Sabotic left the court-house after the hearing, he was reportedly called to the police station, where he was subjected to more torture and ordered to retract the statement he had made in court. Allegedly, as a result of this treatment, several of his ribs were broken. Mr. Sabotic has further reportedly testified that, after having been detained and ill-treated, he was released under threat of more torture and told that the life and security of his family might be in danger if he did not comply with the demands. It is further reported that the police confiscated the medical records describing the injuries Mr. Sabotic suffered during the interrogations.

193. A process similar to the one in Novi Pazar was reportedly initiated by the Bijelo Polje Court of Higher Instance on 26 September 1994 against 21 Muslims from Rozaj, Bijelo Polje, Verani and Pljevlja. The detainees, who allegedly were forced to sign false statements under torture, are accused of posing a threat to the territorial integrity of the Federal Republic of Yugoslavia (Serbia and Montenegro).

194. By letters of 10 June, 12 August and 30 September 1994, the Special Rapporteur requested the Government to inform him of the conditions under which the 25 persons detained in Novi Pazar were being held and of the steps taken to ensure their right to a fair trial without undue delay. In his letter of 30 September 1994, the Special Rapporteur further expressed his deep concern for Mr. Munir Sabotic, and requested the Government to inform him of the measures taken to investigate the allegations of torture and ill-treatment of Mr. Sabotic in detention. In his letters of 10 June and 30 September 1994, the Special Rapporteur also requested that international observers, including representatives of the Centre for Human Rights, be allowed to travel to Novi Pazar and Bijelo Polje to follow the trials and to investigate the allegations made. The Special Rapporteur is still awaiting the Government's response to these questions.

195. The Special Rapporteur wishes to emphasize that the cases referred to above cannot be regarded as isolated or random acts by the law enforcement authorities. They should rather be seen as examples of a long series of past and present trials in which the fundamental rights of the accused and witnesses have been violated in a most flagrant way by members of the police and the judiciary.

196. With regard to the situation of the persons referred to above and others detained under similar circumstances in the Federal Republic of Yugoslavia (Serbia and Montenegro), the Special Rapporteur wishes to stress that, as much as it is the right, and indeed the duty, of a State to investigate criminal charges against its citizens, it is also its duty to respect their fundamental human rights, including the right to a fair trial without undue delay and the right not to be subjected to torture or cruel, inhuman or degrading treatment in detention. Furthermore, the Special Rapporteur wishes to remind the Government that the Federal Republic of Yugoslavia (Serbia and Montenegro) is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and is as such under an obligation to take effective legislative, administrative, judicial or other measures to investigate alleged cases of torture and to prevent such acts in any territory under its jurisdiction.

C. Montenegro

197. According to information received, the situation of the independent trade unions in Montenegro has deteriorated in the course of the past six months. Local sources report that the unions are not in a position to assist persons affected by growing unemployment and forced holidays because of a severe lack of skilled people to lead and manage the organizations. The persons who could have taken this leading role have reportedly all left the country. Therefore, the Special Rapporteur encourages the Government of Montenegro to ensure that trade union and workers' rights are respected, and that any conflicts or strikes that may occur are resolved in a peaceful manner.

D. Conclusions and recommendations

198. The Special Rapporteur finds it discouraging to note that the police forces in the Federal Republic of Yugoslavia (Serbia and Montenegro) appear reluctant to prevent and control acts of violence and harassment. The acquiescence in such acts shows evidence of an unacceptable disregard for fundamental human rights on the part of those authorities which are primarily responsible for the security of the citizens of their country.

199. It is with great concern that the Special Rapporteur takes note of the numerous occasions on which police units are reported to have used excessive force when carrying out their duties. He, therefore, urges the Government to improve discipline in the country's police forces and to prevent further cases of police abuse.

200. The Special Rapporteur requests the Government to investigate and prevent all cases of evictions and dismissals that may be of a discriminatory nature.

201. The Special Rapporteur further urges the Government to put an end to the police abuse and violent house searches in the province of Kosovo and the region of Sandzak. He also calls upon the Government to ensure that persons detained or under investigation are not subjected to ill-treatment or torture, and that their trials are conducted in a fair manner without undue delay.

202. The Special Rapporteur urges third States to proceed with great caution in deciding whether to return externally displaced persons to the Federal Republic of Yugoslavia (Serbia and Montenegro) in cases where human rights abuses are known to occur in or near their home places.

203. The Special Rapporteur urges the Government to reconsider its refusal to allow international monitors to conduct missions to the territories of the Federal Republic of Yugoslavia (Serbia and Montenegro) and its refusal to permit the opening of a field office of the Centre for Human Rights.

IV. THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

A. Introductory remarks

204. Pursuant to paragraph 33 of Commission on Human Rights resolution 1994/72, the Special Rapporteur has continued monitoring developments regarding the human rights situation in the former Yugoslav Republic of Macedonia. Accordingly, the Special Rapporteur visited Macedonia from 27 to 30 July 1994.

205. During his visit, the Special Rapporteur was received by the President of the Republic, the Prime Minister and the Chairman of the Assembly, as well as by the Minister of Foreign Affairs, the Minister of the Interior and the Minister of Justice. He also met the Head of the Spillover Monitor Mission of the Conference on Security and Cooperation in Europe (CSCE) and the delegate of the Special Representative of the Secretary-General at the UNPROFOR Command, former Yugoslav Republic of Macedonia, and held discussions with representatives of the Macedonian Orthodox Church, the Islamic community and the Catholic Church, as well as with a delegation of the Serbian community and representatives of the Council for the Defence of Human Rights and Freedoms in Pristina.

206. The following report is based mainly on information gathered by the field office of the Centre for Human Rights in Skopje and the assessment made thereon by the Special Rapporteur following his visit to the former Yugoslav Republic of Macedonia. The Special Rapporteur reiterates his gratitude to the Government for all the cooperation received in the discharge of his mandate, and particularly for the comments provided for the preparation of this report. The Special Rapporteur continues to be particularly indebted to UNPROFOR and to the CSCE Spillover Monitor Mission.

B. Right to a fair trial

207. The administration of justice in the former Yugoslav Republic of Macedonia still functions on the basis of the system created under the Constitution of the Socialist Republic of Macedonia. New civil and penal codes and procedures have

still not been adopted by the Assembly, notwithstanding the provisions of the Constitutional Act to that effect. The law on the establishment of the Public Attorney (Ombudsman) has also not been adopted.

208. The judiciary is still run by judges appointed by the communist regime and, although the law on the Office of the Public Prosecutor has already been passed, no new Prosecutor has been appointed. Only the new members of the Constitutional Court have so far been appointed according to the new procedures.

209. The Government of the former Yugoslav Republic of Macedonia has pointed out that the law on regular courts and the criminal and criminal procedures laws have not yet been adopted owing to the resistance of the opposition parties in the Assembly. The adoption of these laws requires a two-thirds majority. Moreover, the Government has also stated that the adoption of the Constitution harmonized all the provisions of the Code of Criminal Procedures which had not complied with international standards.

210. Most, if not all, allegations brought to the attention of the Special Rapporteur concern court proceedings in which the superior judicial instances are yet to be exhausted and the defendants are using their right to appeal. This also appears to be the case of the 10 ethnic Albanians - nine citizens of the former Yugoslav Republic of Macedonia and one from the Federal Republic of Yugoslavia (Serbia and Montenegro) - who were found guilty in June 1994 of having formed paramilitary groups in order to overthrow the constitutional order in the former Yugoslav Republic of Macedonia. Notwithstanding the fact that the information received does cast some doubts on the fairness of this trial, which received considerable coverage owing to its political implications, the Special Rapporteur believes that the superior judicial instances should be allowed to discharge their duties according to law and correct any irregularity that might be proved to have been committed by lower instances. The Special Rapporteur will continue to follow the development of this case.

C. Right not to be subjected to torture

211. The Special Rapporteur has received a number of reliable allegations of excessive force being used by the police in the discharge of their duties. The Government has responded by pointing out that such allegations are groundless and that many of the alleged victims have been involved in illegal activities. While some of them have reportedly pressed charges against the authorities, others have not. Without prejudice to the outcome of the relevant court proceedings, the Special Rapporteur has good reason to believe the validity of these allegations.

212. On 14 April 1994, Mr. Jove Bojkovski was reportedly fired at and severely wounded while in police custody. Mr. Bojkovski has alleged that his legs were tied to a chair and his hands behind his back when the shot was fired. He contends that he was kept in police custody for almost four days, without food or sleep, and was severely mistreated. The Government has acknowledged that Mr. Bojkovski was in police custody on that date and that he was indeed injured by a firearm, but as a result of firing it himself.

D. Right to freedom from arbitrary arrest

213. In most of the cases of arrest reported to the Special Rapporteur, it has been alleged that the individuals concerned have remained in police custody for more than the 24 hours allowed by the Constitution, that the reasons for their arrest were not made known to them, and that legal counsel was denied.

214. It has also been reported that the "maximum period of 90 days" for detention established by article 12 of the Constitution was interpreted by the Supreme Court in December 1991 as referring to the period of temporary detention before the indictment is put before the court. The courts would thus be free to extend the duration of detention according to the provisions of the old law for criminal charges, which is still in force. As alleged, the Supreme Court appears to have adapted the new Constitution to an old law.

E. Right to freedom of opinion and expression

215. Censorship is prohibited, and public expression, freedom of speech and information are clearly guaranteed by the Constitution. Nevertheless, the Government still exerts a considerable influence in the exercise of these freedoms, since the most widely distributed daily newspapers, as well as the Macedonian Radio and Television (MRTV), are financed by the State.

216. Members of the opposition parties claim that their announcements are either not published at all or are substantially reduced by the press, while those of parties close to the Government receive better coverage. They also allege that the media tend practically either to ignore their activities or to belittle them.

217. The recent appointment of the General Manager of MRTV, who at the time was still a prominent member of the leadership of the Liberal Party, allegedly promoted expressions of concern among the media and non-governmental organizations.

218. It has also been reported that the Ministry of the Interior recently banned three Serbian periodicals, arguing that the reason was to re-establish a balance among the foreign printed media in the former Yugoslav Republic of Macedonia. The Government pointed out that these measures were taken according to the laws currently in force in the former Yugoslav Republic of Macedonia. The importer has used his right of complaint and is now awaiting the decision of the second-instance commission.

219. On 26 May 1994, the State-sponsored newspaper in the Albanian language, Flaka e vellazerimit, became a daily.

F. Rights of national, ethnic, religious and linguistic minorities

220. Notwithstanding the efforts made by the Government in adverse circumstances, the Special Rapporteur has continued to receive reports regarding cases of discrimination against members of different minorities. These reports refer mainly to access to education and to jobs within the public administration.

221. During the census held in June-July 1994, it was alleged that, in municipalities of mixed population, a Macedonian enumerator would always be present, even in villages completely populated by Albanians, while no Albanian enumerator was present in those villages populated exclusively by ethnic Macedonians. This problem was resolved by recruiting more enumerators from the Albanian community and instructing them to be present also in the villages of Macedonian majority belonging to municipalities of mixed ethnic composition.

222. The right of the entire population throughout the former Yugoslav Republic of Macedonia freely to profess the religion of their choice and in their own language is guaranteed by law. Most religious communities there currently enjoy the right to perform their rites freely. However, it has been reported that it is very difficult to obtain permission from the authorities to build centres of worship.

223. The Special Rapporteur has been informed that the Serbian population in the former Yugoslav Republic of Macedonia has difficulties in registering its religious community, despite complying with the relevant regulations. The Government has pointed out that the Ministry of the Interior refused a request by the ethnic Serbs of the former Yugoslav Republic of Macedonia for registration in the Register of Associations, arguing that there were no legal grounds for such registration. Following an appeal by the Serbian community, the second-instance commission invalidated the decision of the Ministry of the Interior and ruled that the procedure had to be undertaken anew.

224. Mr. Nenad Tasic, a citizen of the former Yugoslav Republic of Macedonia of Serbian origin and a priest of the Serbian Orthodox Church, was forbidden by a court on 14 January 1994 to discharge his pastoral duties on grounds of incitement to national hatred. The Government has pointed out that Mr. Tasic was charged with carrying out pastoral duties in houses in Kumanovo without the approval of the Ministry of the Interior and of the Macedonian Orthodox Church. It should be noted that, according to the Constitution, "the Macedonian Orthodox Church as well as the other religious communities and groups are separate from the State and equal before the law". Accordingly, the law on religious communities mentions the need for an authorization only from the Ministry of the Interior. Moreover, that same law exempts from the need for authorization from the Ministry of the Interior rites performed in the homes of believers who request them.

G. Right to an adequate standard of living

225. Enjoyment of the right to an adequate standard of living in the former Yugoslav Republic of Macedonia has continued to decline as a combined result of, inter alia, the side-effects of the United Nations sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) and the unilateral embargo imposed by Greece at the beginning of 1994. Social stability is thus endangered by rising unemployment and a considerable increase in the cost of living.

226. The capacity of the Government of the former Yugoslav Republic of Macedonia to make the necessary investments to foster full enjoyment of all human rights, in particular economic rights, has also been affected negatively by the current international economic environment.

H. Role of non-governmental organizations

227. The Special Rapporteur believes that non-governmental organizations constitute a key element in the promotion and protection of human rights. The role of non-governmental organizations is all the more important in a country in transition like the former Yugoslav Republic of Macedonia, where certain basic laws, particularly those directly linked to the protection of human rights, have not yet been adopted.

228. However, non-governmental organizations in the former Yugoslav Republic of Macedonia have yet to overcome attitudes inherited from a system in which the people were not expected to criticize public authorities. Most non-governmental organizations attempting to be active in the field of human rights are still in the phase of gaining awareness of these rights and are thus basically engaged in promoting discussions among themselves.

229. Lack of knowledge, resources and organization are considerable set-backs to the effectiveness of non-governmental organizations. The current difficulties in overcoming various differences, including those resulting from different ethnic affiliations, constitute another serious set-back. These difficulties, to a considerable extent, prevent the non-governmental organization community from working in a more coordinated and hence effective manner. During the Special Rapporteur's visit in July 1994, the non-governmental organizations had one of their first joint working meetings.

I. The situation of refugees

230. According to UNHCR statistics, the number of refugees in the former Yugoslav Republic of Macedonia has decreased from more than 30,000 in the summer of 1992 to some 10,000. Most of these come from crisis areas in the former Yugoslavia, mainly from Bosnia and Herzegovina, and are currently being assisted by UNHCR. About 1,500 are accommodated in five collection centres, with the remainder living with host families. These people are still considered by the Government as internally displaced "humanitarian-assisted persons" and are not entitled to apply for asylum or refugee status according to Macedonian law. The

Government has until recently continued to accept some refugees on a case-by-case basis, notwithstanding its August 1992 decision to stop the refugee flow.

231. The current attitude of the Government seems to have changed, as it is becoming more and more difficult for refugees to be allowed into the former Yugoslav Republic of Macedonia. UNHCR is currently dealing with three cases of male refugees whose families have already been in the former Yugoslav Republic of Macedonia for more than two years and who are being prevented from coming to the former Yugoslav Republic of Macedonia either to join their families or to pay them a short visit. About 57 per cent of the refugees now living there are women and children.

J. Conduct of the census and elections

232. A census was held between 21 June and 5 July 1994, the main purpose of which was to count the total population with legal residence in the former Yugoslav Republic of Macedonia, including individuals who had legal residence in the country but had been living abroad for a period of less than a year at the time of the census. It was undertaken following a recommendation of the International Conference on the Former Yugoslavia and was financed by the European Union and the Council of Europe. A group of experts was set up by the Council in order to supervise the entire process from the preparation of the relevant law up to the publication of the results. The phase of enumeration was monitored by a mission of 40 international observers.

233. In some areas of the western part of the former Yugoslav Republic of Macedonia, however, the census began with a certain delay and was thus completed only on 11 July. In the municipality of Debar, where a majority of ethnic Albanians live, the enumerating process has reportedly been only half completed so far. One reason for this delay appears to have been the fear of many members of the Albanian community of not being taken into account in the enumerating process owing to their citizenship status not yet having been regularized. Although the purpose was not to count citizens but legal residents, this problem was resolved by considering such cases under the heading "citizenship pending".

234. It should be noted that all six languages spoken in the country were used during the census, people having had the choice of using either the official language or the language of the nationality to which they belonged. In practice, the declaration of ethnic affiliation was not dependent on the language used in the enumerating process. Moreover, the declaration of ethnic and religious affiliation was not compulsory according to the law. The Group of Experts is reportedly under the impression that the conduct of the census was satisfactory and that the results will be reliable.

235. In accordance with article 63 of the Constitution, the first round of the presidential and parliamentary elections took place in the entire territory of the former Yugoslav Republic of Macedonia on 16 October 1994. The voting process was monitored by a considerable number of domestic and international observers, among whom were delegations from the Council of Europe, the Parliamentary Assembly of CSCE and the Office of Human Rights and Democratic Institutions of CSCE. Although it was reportedly carried out in a fairly

peaceful atmosphere, a number of alleged irregularities were brought to the attention of the Special Rapporteur. Such irregularities appear to have been committed throughout the entire territory of the Republic and therefore not necessarily against any particular constituency.

236. It was pointed out that the electoral lists were somewhat incomplete, as they excluded a considerable number of people who had the right to vote, and that the official electoral invitations were distributed late or not at all. It was also reported that different criteria were applied in different polling stations regarding the documents that citizens could produce in order to vote in the case of their names not being on the electoral lists.

237. These problems will be further examined by the field staff of the Special Rapporteur and the findings will be presented to the competent government authorities.

K. Conclusions and recommendations

238. The human rights situation in the former Yugoslav Republic of Macedonia continues to be impaired by delay in the enactment and implementation, according to the Constitution and the Constitutional Act, of some of the basic laws upon which the juridical and institutional structure of the State is based. These laws are essential for an effective enforcement of the rule of law and thus for the adequate protection of human rights.

239. The Special Rapporteur therefore calls upon all political forces in the former Yugoslav Republic of Macedonia to concentrate on the implementation of the Constitution and the Constitutional Act and thus successfully complete the structural transition to a democratic system based on the supremacy of the rule of law and the protection of human rights.

240. Regarding the first round of the presidential and parliamentary elections held on 16 October 1994, the Special Rapporteur is under the impression that, although progress has been made in relation to previous elections, improvements can still be made by the competent State organs in the organization of the voting process.

241. The Special Rapporteur continues to be concerned by the reports received regarding a limited enjoyment of the right to a fair trial and the persistence of cases of excessive use of force by police. While recognizing that the use of force cannot be avoided in certain circumstances, the Special Rapporteur believes that the police should spare no efforts to restrain its use to the level strictly necessary for the performance of their duties.

242. The Special Rapporteur firmly believes that non-governmental organizations constitute an indispensable source of feedback in the efforts of the Government for the effective promotion and protection of human rights. However, the presence of local human rights non-governmental organizations is still rather weak in the former Yugoslav Republic of Macedonia. The Special Rapporteur welcomes the recent creation of a Human Rights Helsinki Committee in the former

Yugoslav Republic of Macedonia and calls upon all non-governmental organizations to work as much as possible in a coordinated manner.

243. The Special Rapporteur continues to be concerned by the negative influence of the economic situation on the social stability of the country, as well as on progress in the implementation of human rights. The persistent economic deterioration may contribute to the destabilization of the current coexistence of different ethnic groups. The Special Rapporteur wishes to reiterate his belief that the former Yugoslav Republic of Macedonia should receive adequate compensation for losses connected with the implementation of the sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro), that the Greek embargo should be lifted immediately, and that equal and fair treatment should be given to the former Yugoslav Republic of Macedonia in regard to its applications to join international organizations. It is particularly important that the former Yugoslav Republic of Macedonia be promptly allowed to join all relevant security mechanisms, particularly the Conference on Security and Cooperation in Europe.

Appendix

LETTER DATED 26 AUGUST 1994 FROM THE SPECIAL RAPPORTEUR TO THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS*

The Special Rapporteur has taken note of the comments of the Government of the Federal Republic of Yugoslavia on his sixth periodic report (E/CN.4/1994/110), distributed as document E/CN.4/Sub.2/1994/45 at the Subcommission on Prevention of Discrimination and Protection of Minorities, and wishes to take this opportunity of presenting his remarks on these comments to the members of the Commission on Human Rights. At the same time the Special Rapporteur would like to draw the attention of the members of the Commission to the serious difficulties he has faced in his efforts to implement his mandate, due to the uncooperative attitude of the Government of the Federal Republic of Yugoslavia. During the first half of this year, the Government has rejected all requests by the Special Rapporteur and the Centre for Human Rights to undertake missions to the Federal Republic of Yugoslavia in order to collect firsthand information and to investigate allegations of human rights abuses reported to have taken place in that country.

Thus, by letter of 10 June 1994, the Special Rapporteur requested permission for two staff members of the Centre for Human Rights to visit the region of Sandzak in order to investigate recent allegations of human rights abuses in that area. To date the Government has not responded to this request. On 18 July 1994 the Special Rapporteur requested the Government to authorize a mission of two human rights officers to travel to the Federal Republic of Yugoslavia in August 1994. In its letter of 27 July 1994 the Government explained its decision to reject this request by referring to the work of the Special Rapporteur as "one-sided, full of prejudice and above all politicized".

The Special Rapporteur would also like to draw attention to the fact that his proposal to open a permanent field office in the Federal Republic of Yugoslavia, similar to those currently operating in Zagreb, Sarajevo and Skopje, has met with a negative response from the Government. By letter of 11 March 1994 to the Government, the Director of the Centre for Human Rights proposed a meeting between representatives of the Centre and the Government to be held in Belgrade in order to discuss the possibilities of establishing such an office in Belgrade. By letter of 27 March 1994, the Government rejected this proposal by referring to General Assembly resolution 47/1 of 22 September 1992, suspending the participation of the Federal Republic of Yugoslavia in the General Assembly. The Government stated that, since it could not, as a matter of principle, accept cooperation with international organizations on an unequal footing, it was not in a position to reply positively to the Centre's request.

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* Circulated in Security Council document S/1994/1066 of 18 September 1994.

Furthermore, by letter of 6 June 1994, Professor Manfred Nowak, member of the Working Group on Enforced and Involuntary Disappearances, requested authorization to carry out a mission to the Federal Republic of Yugoslavia with a view to meeting government officials and non-governmental organizations representing families and relatives of missing persons. Notwithstanding the purely humanitarian nature of this mission, the Government decided to reject Mr. Nowak's request. In its response of 24 June 1994, the Government stated, inter alia, the following: "Allow me to inform you that bearing in mind the present circumstances, and, above all, the mandate of your Working Group, as well as Mr. Mazowiecki's activities so far, that have been highly politically oriented, one-sided, and not based on facts, the Government of the Federal Republic of Yugoslavia is not able to accept your visit to the Federal Republic of Yugoslavia."

Regrettably, by refusing permission to establish a field office in Belgrade and by rejecting the Special Rapporteur's requests to send missions on an ad hoc basis to the Federal Republic of Yugoslavia, the Government has blocked the Special Rapporteur's attempts to gather firsthand information concerning the situation of human rights in that country. Thereby, the Government has deliberately obstructed the Special Rapporteur in his efforts to fulfil his mandate as defined in Commission on Human Rights resolutions 1994/72 and 1994/76.

The Special Rapporteur has also taken note of the comments of the Government of the Federal Republic of Yugoslavia on his sixth periodic report (E/CN.4/1994/110). The attention the Government has given to the report should be considered as a positive step towards a dialogue between the Government and the Special Rapporteur. Such a dialogue combines well with the tasks of the Special Rapporteur as defined by the Commission on Human Rights in its resolution 1994/72 and with his endeavour to open new channels of communication with the parties concerned. The Special Rapporteur is also convinced that a free and unprejudiced discussion is one of the absolute prerequisites for a lasting improvement of the situation of human rights in the former Yugoslavia.

It is therefore with regret that the Special Rapporteur notes the highly polemic and aggressive way in which the Government has chosen to comment on his sixth periodic report. Right from the outset the Government characterizes the Special Rapporteur's work as "tendentious", "one-sided" and "biased". The Special Rapporteur categorically rejects these unsubstantiated accusations, which cannot be seen as compatible with a sound and constructive dialogue.

Most of the questions raised by the Government in its comments on the sixth periodic report of the Special Rapporteur relate to the methodology employed by the Special Rapporteur and his assisting staff when carrying out their task of reporting on the human rights situation in the Federal Republic of Yugoslavia. Accordingly, the Government does not hesitate to disqualify the sources providing the Special Rapporteur with information as biased. Furthermore, the Government appears to be of the opinion that the Special Rapporteur bases his reporting on unchecked information.

With regard to this criticism the Special Rapporteur would like to note the following. Due to the highly sensitive character of the information concerning

alleged human rights abuses in the former Yugoslavia received by the Special Rapporteur, he has chosen to base his methods of work on the practice already established within the framework of other mandates dealing with country situations or thematic questions as established by the Commission on Human Rights. Accordingly, in cases where the Special Rapporteur has had reason to fear that the naming of persons or locations related to alleged human rights violations might jeopardize the life and security of the persons concerned, he has deliberately chosen to protect their anonymity. However, in cases where the Special Rapporteur has deemed it appropriate and useful to give a more detailed account of the circumstances surrounding a particular human rights violation, he has not hesitated to do so.

For similar reasons the Special Rapporteur has also chosen not to make public the sources from which he receives information and allegations concerning human rights violations. The information on which the Special Rapporteur bases his reports originates from a wide range of sources, including private individuals, local and international non-governmental organizations and international governmental organizations. The information provided by these sources is double-checked as a matter of routine and compared to other independent reports in order to find corroborating evidence of alleged human rights violations.

The Special Rapporteur categorically rejects the Government's assertion that he has not paid due attention to the situation of Serbs in other parts of the former Yugoslavia. The Special Rapporteur wishes to emphasize that he, as a matter of principle, devotes equal attention to all individuals, regardless of their ethnic background, whose human rights have been or are being violated within the territories covered by his mandate. Thus, the Special Rapporteur has in all of his reports described violations committed by and against all parties to the conflict in the former Yugoslavia.

In its comments the Government criticizes the Special Rapporteur for not using the official versions of place-names in his reports concerning the Federal Republic of Yugoslavia. In this regard the Special Rapporteur wishes to point out that the names of locations and regions which appear in his reports conform to the practice established and followed by the major international governmental organizations operating in the former Yugoslavia. With regard to the areas commonly known as Kosovo and Sandzak, it should further be noted that these names appear in the form used by the Commission on Human Rights in its resolutions 1994/72 and 1994/76 defining the mandate of the Special Rapporteur.

In its comment on paragraphs 122-123, concerning security of the person, the Government once more accuses the Special Rapporteur of basing his reports on unsubstantiated allegations. In this regard the Special Rapporteur would like to point out that he is in possession of reliable and detailed information concerning numerous cases of torture and severe ill-treatment reported to have occurred particularly, but not exclusively, in the regions of Kosovo and Sandzak. For reasons stated above, the Special Rapporteur has chosen not to disclose the sources of this information. It should also be noted that on the question of torture the Special Rapporteur, in his letter of 21 July 1994, provided the Government with a detailed list of numerous cases of torture and ill-treatment reported to have occurred in the Federal Republic of Yugoslavia.

With regard to the Government's allegation that Mr. Zeljko Dzakula was arrested in the so-called "Republic of Serbian Krajina", the Special Rapporteur notes that this statement is in total contradiction with verified eye-witness accounts, according to which Mr. Dzakula was arrested in Belgrade.

With reference to the Government's arguments concerning public incitement to discrimination and hatred against minority groups, the Special Rapporteur wishes to quote article 20 of the International Covenant on Civil and Political Rights, according to which: "1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law". Moreover, the Human Rights Committee, in its General Comment on article 20, adopted on 29 July 1983 at its nineteenth session, stated that "In view of the nature of article 20, States parties are obliged to adopt the necessary legislative measures prohibiting the actions referred to therein", and that "... paragraph 2 is directed against any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, whether such propaganda or advocacy has aims which are internal or external to the State concerned". From this it becomes clear that it is the unambiguous responsibility of the authorities of the Federal Republic of Yugoslavia to prevent and prohibit any such acts as referred to in article 20 above. In this regard the Special Rapporteur welcomes the fact that the programme "Iskre i varnice nedelje" is no longer broadcast.

With regard to questions concerning freedom of expression and the situation of the media in the Federal Republic of Yugoslavia, the Special Rapporteur notes that these issues will be addressed in a separate forthcoming report. However, it is evident that some of the Government's comments cannot be left unanswered in this context. The Special Rapporteur welcomes the Government's explanation concerning the proposed law on the liberalization of Radio-TV Serbia. He also regrets that, due to an editing error, the meaning of paragraph 126 has been distorted. Thus, the sentence in question should read as follows: "It does not appear either that the Government has the intention of adopting the draft law on the liberalization of Radio-TV Serbia, which was put before the Serbian legislature before it was dismissed by the President". Furthermore, the Special Rapporteur sees the initiative to amend the existing legislation as an encouraging step towards a greater independence of the public media.

The Government's assertion that "... the truth of the matter is that the military authorities of the Republic Srpska [the de facto authorities of the Serbian-controlled areas in Bosnia and Herzegovina] held only military detention camps to which representatives of international humanitarian organizations had free access" is a gross distortion of the truth. Ample evidence of the atrocities committed against civilian men, women, children and elderly in camps held by the Bosnian Serbs has been gathered, inter alia, by the Commission of Experts established pursuant to Security Council resolution 780 (1992) of 6 October 1992 and presented in its final report (S/1994/674).

Concerning conscientious objection to military service in the Federal Republic of Yugoslavia, the Special Rapporteur remains convinced that this should be seen as a legitimate exercise of each individual's right to refuse service in those units of the military forces which have been responsible for

serious violations of human rights in Croatia and Bosnia and Herzegovina. Therefore, given the nature of the conflict in the former Yugoslavia and the fact that Yugoslav forces were involved in hostilities outside its borders during the period 1991 to 1992, the Special Rapporteur is of the opinion that persons who have refused to serve in the armed forces have a just cause and should therefore not be regarded as deserters, but be treated as conscientious objectors.

The Government also characterizes as unsubstantiated the Special Rapporteur's conclusion that the situation of ethnic, religious and linguistic minorities in the Federal Republic of Yugoslavia continues to deteriorate. In this regard the Special Rapporteur wishes to point out that these findings were based on information and corroborating reports received from reliable sources, describing numerous cases of harassment and discrimination of members of minorities. The fact that the majority of the persons who have found themselves obliged to leave the Federal Republic of Yugoslavia as refugees are non-Serbs lends even more credence to these reports.

Regarding the situation in Kosovo, the Government asserts that there have been no complaints by ethnic Albanians about harassment or unlawful criminal proceedings. In this context the Special Rapporteur wishes to draw attention to direct information from various sources, according to which many ethnic Albanians chose not to file complaints against, for example, members of the police force, because of their distrust of the authorities. Irrespective of the reasons behind such behaviour, the Special Rapporteur notes that this reluctance to contact the authorities may contribute to the low number of filed complaints. With regard to the situation of persons detained in Kosovo, the Special Rapporteur has already taken note of the letter of 21 July 1994 sent by the Special Rapporteur on the question of torture to the Government of the Federal Republic of Yugoslavia, listing a large number of recently received allegations concerning cases of torture and severe ill-treatment reported to have occurred in that country. With regard to the Government's assertion that the President of the Pristina Regional Court never had the meeting mentioned in paragraph 140 of the report, the Special Rapporteur merely notes that this statement is in contradiction with information received from a reliable non-governmental source.

Concerning the situation of the 25 Muslims imprisoned in Novi Pazar and accused of causing a threat to the territorial integrity of the Federal Republic of Yugoslavia, referred to in the Government's comments, the Special Rapporteur notes that these persons have reportedly been detained since 23 May 1993 and that court proceedings against the accused began on 31 January 1994, that is, approximately eight months after their arrest. The Special Rapporteur has also received alarming reports according to which these persons were subjected to severe ill-treatment, and that their trial was postponed for the fifth time on 29 July 1994. According to reports, 16 of the detained have recently ended a hunger strike, which began on 1 August 1994 as a protest against the delays in the court proceedings.

With regard to the situation of the persons referred to above and of others detained for similar reasons, the Special Rapporteur wishes to emphasize that, as much as it is the right of a State to investigate charges brought against its citizens, it is also its duty to respect their integrity and their fundamental

human rights, including the right to a fair trial without undue delay and the right not to be subjected to torture, or cruel, inhuman or degrading treatment in detention.

Concerning the situation in Vojvodina, the Special Rapporteur would like to emphasize that, regardless of the cause of the violence in the province, it is always the responsibility of the authorities to prevent, investigate and punish such criminal acts. In this regard the Special Rapporteur welcomes the cooperation established between the Hungarian authorities and the authorities of the Federal Republic of Yugoslavia.

The comments provided by the Bosnian Serb de facto authorities will be addressed in a later report. However, the Special Rapporteur would like to stress that the collection of reliable information concerning the human rights situation in these regions has become increasingly problematic due to the difficulties in gaining access to the Serb-controlled areas in Bosnia and Herzegovina. Lately, representatives of both international governmental organizations and non-governmental organizations have repeatedly been denied entry to the areas concerned.

Finally, it is the Special Rapporteur's hope that these remarks have brought some clarity to the questions raised by the Government in its comments on the Special Rapporteur's sixth periodic report. The Special Rapporteur firmly believes that only a constructive dialogue will ultimately contribute to the improvement of the human rights situation in the former Yugoslavia.